IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

WEDNESDAY, THE TWENTY SIXTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT APPEAL NO: 467 OF 2010

Writ Appeal under clause 15 of the Letters Patent against the order dated 12.3.2010 in WP No. 78/2002 on the file of the High Court.

Between:

Jyothi Ram Chiwade, S/o Gunde Rao, Gangapur (P) , Laure District, Maharastra 413512.

...APPELLANT

AND

1. Union of India, Rep. by Secretary for Home, South Block, New Delhi.
2. Director General of Police, Central Reserve Police Force, New Delhi.
3. Inspector General of Police, Southern Sector, Central Reserve Police Force, Road No.12, Banjara Hills,
4. Deputy Inspector General of Police, Central Reserve Police Force, Hyderabad.
5. The Commandant, 5th Bn, Central Reserve Police Force, Secunderabad.

...RESPONDENTS

Counsel for the Appellant : Ms.R.MADHAVI LATHA, rep., SRI S.KRISHNA

Counsel for the Respondent : SRI GADI PRAVEEN KUMAR, DY.SO.GEN
ASSISTED BY SRI. BABULAL MUKERJEE.

The Court made the following: JUDGMENT

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE SMT JUSTICE RENUKA YARA

WRIT APPEAL No.467 OF 2010

JUDGMENT: *(Per the Hon'ble the Acting Chief Justice Sujoy Paul)*

Ms.R.Madhavi Latha, learned counsel representing Sri S.Krishna, learned counsel for the appellant and Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India, assisted by Sri Babulal Mukherjee, learned counsel for the respondents.

2. With the consent finally heard.

3. This intra-Court Appeal questions the order passed by the learned Single Judge in WP.No.78 of 2002, dated 12.03.2010, whereby, the Deputy Inspector General of Police (D.I.G.), CRPF, Hyderabad, has exercised the power under Rule 29(d) of the **Central Reserve Police Force Rules, 1955** (for short "the Rules, 1955") enhanced the punishment of removal from service.

4. The admitted facts between the parties that the appellant was served with a charge sheet dated 14.10.1999 for unauthorized absence/desertion of service for a period of 171 days. The charges were proved in the enquiry and the appellant

was inflicted with the punishment of reduction of his pay by one stage for three years with cumulative effect. The appellant had unsuccessfully assailed this order by preferring an appeal, which came to be dismissed on 20.11.2000.

5. During annual inspection, the D.I.G. exercised power under Rule 29(d) of the Rules, 1955 and served with a notice of show-cause dated 14.08.2000 to the appellant showing his intention to enhance the punishment. In turn, the appellant submitted his reply on 15.09.2000. Thereafter, the D.I.G. vide impugned order dated 30.10.2000 enhanced the punishment of removal from service.

6. The appellant unsuccessfully challenged the said punishment before the learned Single Judge in WP.No.78 of 2002. The learned Single Judge came to hold that the Rule 29(d) of the Rules of 1955 gives power to the revisional authority to enhance the punishment. The procedural part is meticulously followed and the punishment cannot be said to be disproportionate in nature and therefore, declined interference.

CONTENTIONS OF THE APPELLANT:

7. Learned counsel for the appellant submits that the appellant preferred the appeal against the punishment order which was dismissed on 20.11.2000. After that, it was not open to the revisional authority to enhance the punishment. It is further argued that the revisional order is passed beyond the period of six months. The punishment is disproportionate is last contention on the strength of judgment of this Court in **Union of India v. C.V.Khadekar**[1] and the judgment of Supreme Court in **Angad Das** v. **Union of India**[2].

CONTENTIONS OF RESPODNENTS:

8. Learned Deputy Solicitor General of India for the respondents supported the impugned order of the learned Single Judge and the punishment order and urged that the procedural formalities were meticulously followed. There was no breach of principles of natural justice. The order is passed by the competent authority. The punishment is commensurate to the misconduct. The appellant belongs to

[1] WA.No.749 of 2009, dated 17.02.2022.
[2] (2010 3 Supreme Court Cases 463

disciplined/uniformed force and the unauthorized absence of 171 days is a major misconduct. No interference can be made.

FINDINGS:

9. It is settled that the scope of interference by the Writ Court in the disciplinary proceedings is limited. The interference can be made if there is palpable, procedural irregularity and breach of principles of natural justice, which has resulted into prejudice to the appellant. Interference can also be made, if the findings are frivolous and ultimate punishment imposed is irregular, disproportionate. (See **Apparel Export Promotion Council v. A.K.Chopra**[3]) If the present matter is examined on the aspect of procedural fairness, it will be clear that the Rule 29(d) empowers the authority to enhance the punishment after putting the delinquent employee to notice regarding the proposed enhancement. The procedural part is duly taken care of by the competent authority. Learned counsel for the appellant could not point out any statutory bar of limitation beyond which said power could not have been exercised. It was faintly argued that the revisional authority

[3] 1999 (1) SCC 759

could not have exercised the power beyond six months. But no provision about statutory time limit could be pointed out.

10. The judgment of Supreme Court in **Angad Das** (supra) makes it clear that the delinquent employee preferred a simple letter of request for re-employment, which was considered and treated as an appeal by the competent authority and accordingly, he enhanced the punishment. Since such letter was not treated to be an appeal by the Supreme Court, the consequent action of D.I.G. of Police by treating it as an appeal was interfered with. In the instant case, the competent authority has exercised its *suo motu* power flowing from Rule 29(d) of the Rules, 1955 and therefore, the judgment of **Angad Das** (supra) is of no assistance.

11. Another judgment in WA.No.749 of 2009 is relied upon, wherein the punishment was held to be disproportionate. In our opinion, the period of unauthorized absence is enormous in nature. The aspect of unauthorized absence for the purpose of deciding quantum of punishment is considered by Courts in catena of judgments. It is apposite to consider certain relevant judgments. The Division Bench of Madhya Pradesh High Court

in **Badshah Singh v. State of M.P.**[4] considered unauthorized absence of 35 days of a member of Armed Force and opined that punishment of removal from service cannot be said to be disproportionate. The Apex Court in **Union of India v. Manoj Deswal**[5] opined that unauthorized absence of 108 days is sufficient for passing order of discharge. In **Union of India v. EX.No.6492086A SEP/ASH Kulbeer Singh**[6], it was clearly held that unauthorized absence in Armed Force for considerable period is serious misconduct and dismissal from service is not a disproportionate punishment.

12. In this view of the matter, the judgment of this Court cited by the learned counsel for the appellant is of no assistance.

13. If the present matter is examined in the backdrop of aforesaid principles laid down by the Courts, the inevitable conclusion would be that the unauthorized absence of the appellant is enormous in nature and such unauthorized absence in disciplinary force cannot be easily brushed aside. In other words, we are unable to hold that punishment is shockingly disproportionate.

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[4] 2012 SCC OnLine MP 5391
[5] (2016) 15 SCC 511
[6] (2019) 13 SCC 20

14. In absence thereof, we find no reason to interfere with the order of the learned Single Judge in W.P.No.78 of 2002, dated 12.03.2010.

15. The Writ Appeal *sans* substance and is hereby **dismissed**. No costs. Interlocutory applications, if any pending, shall also stand closed.

SD/-M.MANJULA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. One CC to SRI S.KRISHNA, Advocate. [OPUC]
2. One CC to SRI GADI PRAVEEN KUMAR, (Deputy Solicitor General of India), High Court for the State of Telangana at Hyderabad. [OPUC]
3. Two CD Copies.

BSK

LS

HIGH COURT

DATED:26/03/2025



JUDGMENT

WA.No.467 of 2010

DISMISSING THE WRIT PETITION WITHOUT COSTS

PA
10/4/25