



9-WP-1101-15

1/14

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1101 OF 2015

Shri Bhupesh Tukaram Meshram  
Aged about 37 years,  
Occ: Dismissed Assistant Comandant,  
Central Industrial Security Force Unit,  
ONGC, Nazira, Assam-786495  
Permanent R/o 152, Kukde Layout,  
Nagpur-440027

... Petitioner

-vs-

1. The Union of India,  
Through its Secretary Ministry of  
Home Affairs, Jaisalmer House,  
16 Mansingh Road, New Delhi-110011

2. Deputy Inspector General (Pers),  
Office of Director General, Central  
Industrial Security Force, (Ministry of  
Home Affairs) Block No.13, CGO Complex,  
Lodhi Road, New Delhi-110003

3. Deputy Inspector of General,  
Central Industrial Security Force  
Unit, ONGC, Nazira, Assam-786495

4. The Inquiry Officer,  
Senior Commandant (Inquiry  
Officer), CISF, KRTC, Mundali  
Kharavela Regional Training Center,  
Cuttack-754006, Odisha

... Respondents

Shri A. B. Moon, Advocate for petitioner.  
Shri S. A. Chaudhari, Advocate for respondents.

CORAM : ANIL S. KILOR AND RAJ D. WAKODE, JJ.

DATED : 5<sup>th</sup> March, 2026

Oral Judgment : (Per : A. S. Kilor, J.)

By way of present writ petition, the order of "Dismissal from

Service”, dated 23/12/2014 and the entire inquiry proceedings are under challenge on the ground that principles of natural justice have not been complied. The other ground is that, in criminal trial on similar charges, the petitioner has been acquitted.

2. The brief facts of the present case are as under :

The petitioner was appointed as ‘Assistant Commandant’ in Central Industrial Security Force on 14/10/2006 in ‘Group-A’ service category through UPSC. On 28/07/2011, one Ms Vaishali filed a criminal complaint against the petitioner which was registered as Crime No.106/2011, on 30/07/2011, for the offences punishable under Sections 376, 377, 494, 495, 315, 316, 506, 507 and 419 of the Indian Penal Code. Thereafter, the respondent No.2, Deputy Inspector General (Personnel) issued charge memo, containing three charges against the petitioner, on 15/03/2012.

3. The reply to the same was filed by the petitioner.

4. The charge against the petitioner was that, he established physical relations with the complainant Vaishali under the pretext of marriage. Second charge was about absence from duty without sanctioned leave. And third charge was that the petitioner failed to maintain a decent standard of conduct and behaviour in his private life.

5. Thereafter, the respondent No.4 was appointed as Inquiry Officer on 28/06/2012 and thereupon inquiry was conducted against the petitioner. It is to be noted that similar charge related to establishing physical relations with Vaishali was in the criminal trial.

6. It is alleged that the inquiry was conducted behind the back of the petitioner and it was proceeded *ex-parte* as the petitioner failed to attend the proceedings.

7. It is the case of the petitioner that after such complaint by the complainant Ms Vaishali, the petitioner was unable to perform his duties due to major depressive disorder and was undergoing treatment. Though, letters were sent by the father and wife of the petitioner, informing the medical condition of the petitioner and inability to remain present in inquiry, such letters were ignored by the respondents and proceeded with the inquiry.

8. At the end of the inquiry, it was concluded that, the charges at Sr.Nos.(I), (II) and (III) were proved against the petitioner and thereupon, the impugned order dated 23/12/2014, came to be issued dismissing the services of the petitioner.

9. As per the advice tendered by the UPSC and considering the facts and circumstance of the case, the President of India awarded the penalty of

‘Dismissal from Service’ to the petitioner. The order in that regard was issued by respondent No.2- Deputy Inspector General (Pers) on 23/12/2014.

10. The petitioner accordingly filed present writ petition raising a challenge to the order of dismissal dated 23/12/2014, as well as to the inquiry proceedings. It is to be noted that during pendency of this writ petition, the petitioner has been acquitted in the criminal proceedings.

11. We have heard the counsel for the parties. Shri A. B. Moon, learned counsel for the petitioner argued that, the impugned order of dismissal is in violation of principles of natural justice as no opportunity was given to the petitioner to contest the inquiry proceedings and to defend his case. It is submitted that, the letters issued by the father and wife of the petitioner apprising the respondents about medical condition of the petitioner and his inability to attend the inquiry proceeding, were ignored and the inquiry was continued. It is therefore submitted that, inquiry proceeding needs to be quashed and set aside.

12. It is further submitted that the petitioner was acquitted of the same charge as framed as Charge No.I in the inquiry and which was held to be proved in the inquiry proceedings. Thus, the punishment as imposed on the petitioner is in contravention of the well settled law.

13. On the other hand, Shri S. A. Choudhari, learned counsel appearing for the respondents submits that, the petitioner while citing reason of ailment for not appearing in the inquiry proceeding, attended the criminal proceedings during the same period. It is submitted that since, there was no request letter submitted by the petitioner for not proceeding with the inquiry as he was medically unfit and therefore he could not attend the proceeding, the applications of his father and wife were not considered.

14. He further submits that though the petitioner has been acquitted of the same charge as framed in the inquiry as Charge No.I , it cannot be a sole ground for not imposing punishment based on finding recorded by the Inquiry Officer after conducting a full fledged inquiry. In support of his submission, Shri Chaudhari, learned counsel placed reliance on the judgment of Hon'ble Supreme Court in case of *Deputy Inspector General of Police and anr. vs. S. Samuthiram (2013) 1 SCC 598*.

15. In the light of rival submissions, we have perused the record and the inquiry report. It is evident that there were three charges levelled against the petitioner as below :

*That Shri Meshram Bhupesh Tukaram, Asst Commandant has joined CISF on 14.10.2006 and presently posted at CISF Unit ONGC Nazira (Assam). Whereas a fact finding enquiry was conducted on receipt of a legal notice on behalf of Ms Vaishali Sonkusare, D/o Shri Bapuraoji Sonkusare, resident of Plot No.32, Hanuman Nagar, Nagpur, in which following acts of*

*omission and commission were prima facie found against him :-*

*a) He made physical relationship with Ms Vaishali in 2006 on the false promise of marrying her.*

*b) He married another lady on 14.5.2008 but suppressed this from Ms Vaishali to continue the above physical relationship. He brought Ms. Vaishali to the official accommodation at CISF Unit IOC Mathura in the year 2008 and again in the month of June, 2009 and thus, continued this relationship.*

*c) Ms. Vaishali got pregnant due to this relationship in 2009 but was convinced by Shri Meshram Bhupesh Tukaram for abortion of two months pregnancy on 16.9.2009 for which payment was made by Shri Meshram Bhupesh Tukaram indirectly.*

*d) Ms. Vaishali discontinued the above relationship with Shri Meshram as soon as she came to know of his marriage with another lady and focused on her career in Govt Railway Police, Maharashtra. However, Shri Meshram Bhupesh Tukaram threatened to ruin her career and reputation and blackmailed her to expose by publishing her obscene photos on web and thereby forced her to continue in the relationship. This forced her to lodge a criminal case against him on 30.7.2011 vide case No.106/11 u/s 376, 377, 494, 495, 315, 316, 506, 507 and 419 of IPC.*

*Thus, Shri Meshram Bhupesh Tukaram, Assistant Commandant acted in a manner unbecoming of an officer of his status in an Armed Force of the Union and also violated Rule 3(1) (iii) of CCS (Conduct) Rules, 1964.*

## **ARTICLE - II**

*That Shri Meshram Bhupesh Tukaram, Asst Commandant while posted at CISF Unit ONGC Nazira, vide his application dated 31.07.2011 had abolished for 25 days EL wef 01.8.2011 on the ground of the emergency at home. By this time the above mentioned criminal case had been registered on 30.7.2011 and he was fully aware of the case. He went to Nagpur and participated in the investigation process and also secured anticipatory bail. Thus he had intentionally misrepresented and suppressed the above material information of filing of criminal case from his Controlling Officer. By doing so, he violated Govt of India decision No. (2) below rule (3) of CCS (Conduct) Rules, 1964.*

*Thus, Shri Meshram Bhupesh Tukaram, Assistant Commandant violated Rule (3) of CCS (Conduct) Rules, 1964 and acted in a manner unbecoming of an officer of his status in an Armed Force of the Union.*

**ARTICLE-III**

*That Shri Meshram Bhupesh Tukaram, Asstt Commandant has indulged in an act of exploiting a woman on false pretext, blackmailing, threatening and alluring her. These actions of blackmailing, threatening and alluring women brought a bad name to the Organization and have tarnished the image of the Force. Thus, he failed to maintain a decent standards of conduct and behaviour in his private life and violated Govt. of India's decision No. (23) (4) below Rule 3 of CCS (Conduct) Rules, 1964.*

*Thus, Shri Meshram Bhupesh Tukaram, Assistant Commandant indulged into-acts unbecoming of a Government servant and violated the provision of Rule 3(1) (iii) of CCS (Conduct) Rules, 1964.*

16. As far as the allegations about physical relations with Ms Vaishali are concerned, similar charges were framed against the petitioner in criminal trial and the petitioner has been acquitted of the same after trial.

17. Perusal of the judgment dated 19/12/2015 passed by the learned Sessions Judge, Nagpur in Sessions Trial No.102/2012, reveals that the prosecutrix had surrendered her person even before the accused made promise to marry her. It is thus observed that, it cannot be said that the promise allegedly made was mere a hoax. The trial Court hence, observed that as per the evidence on record, the prosecution has failed in its boundant duty to bring home the guilt of accused beyond reasonable doubt.

318. The Honb'le Supreme Court of India in case of *Maharana Pratap*

*Singh vs. State of Bihar and ors. 2025 SCC OnLine SC 890*, has observed in paragraph 47 as under :

“ 47. While an acquittal in a criminal case does not automatically entitle the accused to have an order of setting aside of his dismissal from public service following disciplinary proceedings, it is well-established that when the charges, evidence, witnesses, and circumstances in both the departmental inquiry and the criminal proceedings are identical or substantially similar, the situation assumes a different context. In such cases, upholding the findings in the disciplinary proceedings would be unjust, unfair, and oppressive. This is a position settled by the decision in *G. M. Tank (supra)*, since reinforced by a decision of recent origin in *Ram Lal v. State of Rajasthan*.

19. It would be further beneficial to refer to the judgment of Honourable Supreme Court in case of *Ram Lal vs. State of Rajasthan and ors. (2024) 1 SCC 175*, wherein in paragraphs 29 and 30 it is observed thus :

29. We are satisfied that the findings of the Appellate Judge in the criminal case clearly indicate that the charge against the appellant was not just, "not proved" — in fact the charge even stood "disproved" by the very prosecution evidence. As held by this Court, a fact is said to be "disproved" when, after considering the matters before it, the court either believes that it does not exist or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. A fact is said to be "not proved" when it is neither "proved" nor "disproved" (see *Vijayee Singh v. State of U.P. (1990) 3 SCC 190*).

30. We are additionally satisfied that in the teeth of the finding of the Appellate Judge, the disciplinary proceedings and the orders passed thereon cannot be allowed to stand. The charges were not just similar but identical and the evidence, witnesses and circumstances were all the same. This is a case where in exercise of our discretion, we quash the orders of the disciplinary authority and the appellate authority as allowing them to stand will be unjust, unfair and oppressive. This case is very similar to the situation that arose in *G.M. Tank vs. State of Gujarat (2006) 5 SCC 446*.

20. Similarly, in case of *G. M. Tank vs. State of Gujarat and ors. (2006) 5 SCC 446*, it is observed by the Honourable Supreme Court in

paragraph 30 of its judgment, thus :

*“ 30. The judgments relied on by the learned counsel appearing for the respondents are distinguishable on facts and on law. In this case, the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in a departmental case against the appellant and the charge before the criminal court are one and the same. It is true that the nature of charge in the departmental proceedings and in the criminal case is grave. The nature of the case launched against the appellant on the basis of evidence and material collected against him during enquiry and investigation and as reflected in the charge-sheet, factors mentioned are one and the same. In other words, charges, evidence, witnesses and circumstances are one and the same. In the present case, criminal and departmental proceedings have already noticed or granted on the same set of facts, namely, raid conducted at the appellant's residence, recovery of articles therefrom. The Investigating Officer Mr V.B. Raval and other departmental witnesses were the only witnesses examined by the enquiry officer who by relying upon their statement came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case and the criminal court on the examination came to the conclusion that the prosecution has not proved the guilt alleged against the appellant beyond any reasonable doubt and acquitted the appellant by its judicial pronouncement with the finding that the charge has not been proved. It is also to be noticed that the judicial pronouncement was made after a regular trial and on hot contest. Under these circumstances, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings to stand.”*

21. From the above referred observations of the Honourable Supreme Court, it is evident that if the evidence in departmental inquiry and the criminal proceedings were the same without there being any iota of difference, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings once the accused is acquitted in the criminal proceedings.

22. In the light of above referred well settled principles of law if the

facts of the present case are considered, it can be seen that in criminal proceedings, charges against the petitioner were as under :

1] *That, from 15 to 20 days after joining your class in January 2007, in a Garden hotel situated at Hingna Road, and thereafter from time to time till 28-07-2011 at various places i. e. Kindsi and Mathura by administering and intoxicating stupefying substances and under threats, you accused forcibly committed rape on complainant Ku. Vaishali Bapuraoji Sonkusale, aged about 30 years, R/o. Hanuman Nagar, Dighori Naka, Nagpur, and thereby committed an offence punishable under Section 376 of Indian Penal Code and within cognizance of Court of Session.*

2] *Secondly, that, from 15 to 20 days after joining your class in January, 2007, in a Garden hotel situated at Hingna Road, and thereafter from time to time till 28-07-2011 at various places i. e. Kindsi and Mathura by administering and intoxicating stupefying substances and under threats, you had carnal intercourse, against the order of nature with complainant Ku. Vaishali Bapuraoji Sonkusale, aged about 30 years, R/o. Hanuman Nigar, Dighori Naka, Nagpur, and thereby committed an offence punishable under Section 377 of Indian Penal Code and within cognizance of Court of Session.*

3] *Thirdly, in the year 2008 having been validly married, you again married with complainant Vaishali Bapuraoji Sonkusale and you had a wife living, duly performed second marriage in Mahalaxmi Mandir, Badkas Chowk, Nagpur by putting kumkum and tying Mangalsutra and thereby you have committed an offence punishable under Section 494 of Indian Penal Code, and within my cognizance.*

4] *Fourthly, in the year 2008 having been validly married, you again married with complainant Vaishali Bapuraoji Sonkusale and you had a wife living, duly, performed second marriage in Mahalaxmi Mandir, Badkas Chowk, Nagpur by concealing fact of your first marriage and thereby you have committed an offence punishable under Section 495 of Indian Penal Code, and within my cognizance.*

5] *Fifthly, that on since January, 2008 you prevented the child from being borne alive not for saving the life of complainant in a good faith at a hospital situated at Indora, Nagpur and thereby you have committed an offence punishable under Section 315 of Indian Penal Code and within cognizance of*

*Court of Session.*

*6] Sixthly, you in the year 2008, by committing offence of criminal intimidation caused hurt to the complainant Vaishali Sonkusale by threatening her to kill and thus committed an offence punishable under Section 506 of the Indian Penal Code and within my cognizance.*

23. Article-I of charge framed in departmental proceeding is similar to the Charges in the criminal trial and admittedly, the petitioner has been acquitted of all the charges in criminal trial on the ground that the prosecution failed to prove the charge against the petitioner beyond reasonable doubt. In the circumstances, the finding that the petitioner being guilty of Article-I cannot be sustained as he is acquitted in the criminal proceedings which has involved similar and identical charges, evidence, witnesses and circumstances.

24. There is no dispute about the law laid down in the *Deputy Inspector General of Police* (supra). However, it is of no help to the respondents as in the said case the acquittal was because of non examination of many crucial witnesses and on the ground that the complainant and his wife turned hostile. Thus the Court in the said case has observed that the said case was not of honourable acquittal. Whereas, the present case is of acquittal after examining all the crucial witnesses and considering the evidence of the complainant.

25. As regards Articles (II) and (III) are concerned, though during the inquiry, father and wife of the petitioner were repeatedly informing about the

health condition of the petitioner and the department was apprised of the fact that the petitioner had lost his mental stability and was taking psychiatric treatment, no heed was paid to their requests and continued to proceed with the inquiry and concluded the same *ex-parte*.

26. The Single Bench of this Court in case of *Sheshrao Daulatrao Raut vs. State of Maharashtra 1989 SCC Online Bom 103* has observed in paragraph 14 thus :

“ 14. The petitioner contends that he was denied "a reasonable opportunity of being heard" in respect of the charges made against him in the inquiry which resulted in the impugned orders. It is therefore necessary to consider, in the first place, as to what an inquiry is. When does an inquiry commence? When does it terminate? This question is important because the obligation to hear the petitioner in respect of the charges made against him continues during the inquiry. It is often erroneously assumed that the inquiry ends with the report of the Inquiring Authority. The word "inquire" means to ask about or to question, with the object of seeking truth. (Webster's Third New International Dictionary, Volume I.) Inquiry is the act of seeking truth, information or knowledge about something. When used, in the context of departmental inquiry in respect of charges against & Government servant, it means the formal or official investigation by a person having authority to compel testimony. It is the search for the truth or otherwise of the accusations made against him. This is done by asking questions, collecting testimony of witnesses and information from documents. Inquiry is thus the totality of the steps taken in search for truth through the investigative media of issuing notice, recording and fairly considering the evidence, discussion and reasoning.”

27. In the present matter, though it is stated that petitioner attended the criminal trial but not inquiry proceedings, no such evidence is produced on record. The record shows that the mental condition of the petitioner was not so to enable him to attend the inquiry proceedings and effectively defend his case. The record further shows that father and wife of the petitioner informed the said fact about inability of the petitioner to attend the inquiry proceedings which was not considered and the same was ignored by the respondent and proceeded with the inquiry. Thus, considering failure of the petitioners, it can be said that the petitioner had no control over his ailment which prevented him from attending the inquiry proceedings. Whereas, for the said period, the petitioner was absent on duties too. Thus, the absence of the petitioner in the inquiry proceedings cannot be held to be willful as it was due to genuine medial ailment duly intimated to the Authorities.

28. For aforesaid reasons, we have no hesitation in holding that, the petitioner was not granted sufficient opportunity to defend his case on Charge of Articles (II) and (III). Thus, on this count for not following the principles of natural justice, findings recorded on Charge Articles (II) and (III) need to be quashed and set aside.

29. Having held so, the order of dismissal from services of the petitioner needs to be quashed and set aside. However, since it is case of the petitioner himself that he was not in a position to serve or attend the duties

and he was under treatment, we are of the considered opinion that the petitioner would not be entitled for any back wages for the said period. Further, we are of the view that since the findings on Charge Articles (II) and (III) have been set aside on the ground that no opportunity was given to the petitioner to defend his case, it would be appropriate to grant liberty to the respondent-Department to conduct *de novo* inquiry on reinstatement of petitioner, on the above referred charges against the petitioner, if so desires.

30. Accordingly, we pass the following order :

- (i) The order of “Dismissal from Service” dated 23/12/2014 passed by respondent No.2-Deputy Inspector General (Pers) is hereby quashed and set aside.
- (ii) Similarly, we quash and set aside the disciplinary proceedings and inquiry report against the petitioner. We however, grant liberty to the respondent-Department to hold *de novo* inquiry on Charge Article (II) and (III) if so they desire.
- (iii) The petitioner is held to be not entitled for back wages.
- (iv) The petitioner shall be reinstated in service within three months from today.
- (v) Rule is made partly absolute in aforesaid terms with no order as to costs. Writ Petition is disposed of.

(Raj D. Wakode, J.)

(Anil S. Kilor, J.)