



\$~6

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 19th December, 2025.*

+ W.P.(C) 6806/2006

EX.ASSTT.COMMANDANT R.S.YADAVPetitioner

Through: Mr. Lokesh Bhardwaj, Mr. Ashna Narang, Mr. Jatin & Mr. Shivam Chauhan, Advs. alongwith petitioner in person.

versus

UOI & ORS.Respondents

Through: MR. R.D Bhardwaj, CGSC, Mr. Kushagra Kumar, SPC alongwith Mr. Ali Mohamad, AC, Mr. Sanjay Kumar, Insp., Mr. S.K. Bharti & Mr. Manjunath, SI, CISF.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

J U D G M E N T

DINESH MEHTA, J. (Oral)

1. The instant writ petition is directed against the order dated 26.10.2005 passed by the Deputy Inspector General (L&R) of the Central Industrial Security Force (*hereinafter referred to as 'CISF'*) (respondent no. 3), whereby the petitioner has been compulsorily retired from service.
2. Facts giving rise to the present writ petition are that on 01.09.1976, the petitioner joined as a Sub-inspector in CISF and was promoted to the post of Assistant Commandant on 09.01.1997.
3. Some time after his promotion, on 19.06.1998, the petitioner was posted at CISF Unit, Dhankuni Coal Complex (*hereinafter referred to as*



'DCC'), after being transferred from CISF Unit at NTPC, Dadri, Gautam Budh Nagar, UP.

4. On 15.11.1999, a representation came to be filed by one lady constable (*hereinafter referred to as 'complainant-B'*) levelling certain aspersions, which letter was taken to be a complaint levelling allegation of an attempt to develop illicit relationship and passing inappropriate remarks against her.

5. According to the petitioner, said complaint was motivated and with an attempt to falsely implicate him, because as a strict officer, he had tried to bring in discipline and curb theft and malpractices and in that process, he had issued a warning letter to the complainant-B.

6. In furtherance of the complaint so made, a discreet enquiry was ordered to be conducted, in furtherance whereof a report dated 26.01.1999 came to be furnished with a conclusion that the lady constable (complainant-B) was being put to difficult and strenuous duties, which made her feel that the petitioner was targeting her.

7. However, since the said discreet enquiry was conducted by a Sub-Inspector, at the request of the petitioner, a Preliminary Enquiry was ordered to be conducted by the Deputy Commandant (S.P. Selvan). Said S.P. Selvan, who conducted the Preliminary Enquiry (*hereinafter referred to as Ist PE*) exonerated the petitioner vide report dated 23.02.2000.

8. The DIG directed the above Deputy Commandant (S.P. Selvan) to review the report on the ground that it was necessary to have conducted a detailed enquiry, as he had only examined key personnel in the Unit.



9. The Deputy Commandant (S.P. Selvan) though recorded statement of Sabita Dey; but could not record statement of ex-water carrier/cook Krishna Rani Mondal, as she had already resigned from the job. But nevertheless reiterated his report vide detailed letter dated 10.06.2000.

10. This PE was also discarded and another PE was ordered to be conducted by the Deputy Commandant (Tedhi Singh), CISF, before whom all three ladies did depose, but gave evasive replies and consequently, the said officer gave a report dated 05.12.2000 and exonerated the petitioner (said report shall be referred to as 'second PE').

11. In spite of the above, the DIG ordered for yet another PE, this time by a lady officer. A report dated 13.08.2001 (*hereinafter referred to as 'third PE'*) came to be furnished, in which the complaint was found substantiated.

12. On the basis of third PE (which was factually fourth), a disciplinary enquiry was instituted against the petitioner vide Memorandum dated 05.06.2002, with the following articles of charges:

"ARTICLE OF CHARGE-I: *That the said Shri R.S. Yadav, while posted and functioning as Assistant Commandant, CISF Unit, DCC Dankuni during the period from 19.6.1998 to 8.11.2000 had made indecent proposals to his junior functionary No. 882298458 Lady Constable Baby Ghosh and tried to develop illicit relations with her. As such, Shri R.s. Yadav indulged himself in an act of gross moral turpitude. Thus, Shri R.S. Yadav, acted in a manner unbecoming of an officer of his status and service in an Armed Force of the Union.*

ARTICLE OF CHARGE-II.

That Shri R.S. Yadav while posted and functioning in the aforesaid capacity during the aforesaid period, committed a gross misconduct in that he tried to sexually exploit Smt. Sabita Dey, W/o Late Constable P.K. Dey. As such, Shri R.S. Yadav Indulged himself in an act of gross morale turpitude. Thus, the said Shri R.S. Yadav acted in a manner unbecoming of a government servant of his status and service in an Armed force of the Union.

**ARTICLE OF CHARGE-III:**

That the said R.S. Yadav while posted and functioning in the aforesaid capacity during the aforesaid period, committed a gross misconduct in that he harassed and tried to exploit sexually W/C. Krishna Rani Mondal, thereby indulged himself in grossly immoral act. Thus, the said Shri R.S. Yadav acted in a manner unbecoming of a Government Servant of his status and service in an Armed Force of the Union.”

13. The Enquiry Officer recorded the statements of 3 witnesses complainant-B (PW-1), Krishna Rani Mondal, (PW-2) & Sabita Dey (PW-3) and allowed cross-examination was made by the petitioner’s defense counsel, whereafter he found the charge no. 1 to be proved while charge no. 2 & 3 to be not proved.

14. The enquiry report dated 08.03.2004, was considered at various levels and a decision to compulsorily retire the petitioner was taken by the Deputy Secretary, Ministry of Personnel & Training vide his office note dated 28.06.2005.

15. However, when the record was placed before the Special Secretary, he made various observations, including that the punishment of compulsory retirement recommended by the UPSC appears to be too severe, because in the open preliminary enquiry(ies), the complainant-B had failed to reveal misconduct.

16. Nevertheless, the Deputy Inspector General decided to proceed on the advice of the UPSC which later got approval of Hon’ble the then Home Minister. And consequently, an order to compulsorily retire the petitioner was passed.

17. Learned counsel for the petitioner argued that firstly, there was no occasion for the respondents to have ordered preliminary enquiry after



preliminary enquiry. He contended that for extraneous reasons, the authorities wanted to victimize the petitioner and he has been made a prey to the ploy adopted by the officers, in which the lady (complainant-B) was used as a tool.

18. He argued that the complainant-B had not only alleged inappropriate remarks against her, but had also stated that another lady namely Sabita Dey and Krishna Rani Mondal were also made subject matter of the similar treatment. He highlighted that Krishna Rani Mondal did not appear and rather refused to depose before the Enquiry Officer and the third lady namely Sabita Dey though appeared before the Enquiry Officer but stated that the facts are incorrect and she was made to sign the statement (PAGE 279).

19. Learned counsel argued that true it is, that the level of proof as required in Disciplinary Enquiry is not as high as is required in criminal trial, but even if going on the principle of preponderance of probabilities, the Enquiry Officer was not justified in concluding that charge no. 1 against the petitioner stood proved.

20. He further asserted that the complainant had been transferred from the office of the Assistant Commandant on 04.03.1998, whereas the petitioner came to join said unit on 18.06.1998 and argued that when the complainant-B was not posted in the office, when the petitioner was posted, there was no question of allegations being true.

21. He further contended that since the complainant-B was not posted in the petitioner's office, there was no occasion for him to have called her or allowed her to come in his chamber and made to sit on chair in front of him.



22. He submitted that in the complaint, the complainant-B had stated that when she was in the office, another lady ASI, Alpna Mukherjee and the petitioner being Assistant Commandant used to harass her and tried to exploit her, is false and motivated on the face of it inasmuch as her assertion about she being in his office was factually incorrect.

23. He submitted that maybe she was in the same unit, but since the very foundation of the complaint is false, it should be taken that her complaint is motivated or actuated with malafide.

24. Learned counsel for the petitioner contended that the petitioner had taken specific plea before the Enquiry Officer that the subject complaint is motivated because the petitioner had issued a letter of warning to the complainant-B, as she had refused to go on election duty. He submitted that since there were only a handful of lady constables, he had to send the complainant-B for election duties, but she cited lame excuses towards her duties, and shown disorderly behavior, for which he had issued a warning letter on 18.01.1999.

25. It was argued by learned counsel for the petitioner that the complainant-B had taken offence of such letter of warning and concocted a story and lodged the complaint, not only to tarnish the petitioner's image but also to take revenge from him.

26. Learned counsel for the respondent no.3 on the other hand argued that not only the Enquiry Officer but also the Disciplinary Authorities and the Government has found the enquiry report to be valid and trustworthy and has accordingly passed an order of punishment under consideration viz. compulsory retirement. He further submitted that this Court while exercising



its jurisdiction under Article 226/227 of the Constitution of India cannot re-appreciate the evidence and substitute its own findings.

27. He added that High Court in matters relating to disciplinary proceedings is required to satisfy itself about the observance of procedure established by law and whether the enquiry has been fair or not. The correctness or otherwise of the report cannot be gone into by the High Court.

28. He argued that the petitioner's assertion that when he was transferred to the office on 18.06.1998, the complainant was not there in his office as she had been posted somewhere else on 04.03.1998 is of no help to him, because he being the Unit-in-charge had control and supervision over the staff of entire unit, including the complainant-B.

29. He argued that there is enough evidence on record to show that the petitioner had misbehaved with the complainant-B and had made inappropriate remarks. He also argued that testimony of the victim before the enquiry officer has remained unimpeached and therefore, the petition be dismissed.

30. Heard learned counsel for the parties and perused the records.

31. It is to be noted that in two out of the three Preliminary Enquiries, (*vide* reports dated 23.02.2000 and 05.12.2000) and Review Report dated 10.06.2000, the petitioner was exonerated. We do not find any sufficient reason or cause for the respondent no.3 to have order for a third preliminary enquiry (which was factually fourth PE).

32. No satisfactory reason has come forth justifying the third PE, when he was found innocent in the first and second PE. The second enquiry, which was conducted by Mr. Tedhi Singh, The Deputy Commandant, ought to have



been accepted, as no irregularity was found and it was in accordance with law. The respondents ought to have given quietus to the issue given the nature of allegations which reeks of vengeance rather than genuine harassment. Moreso, there is no allegation of serious nature.

33. The order of conducting third Preliminary Enquiry and its report dated 13.08.2001 was uncalled for and rather solicited. The initiation of Disciplinary Enquiry against the petitioner which was a consequence of third PE and the resultant order too was unwarranted.

34. We are cognizant of the legal position that the scope of interference, when it comes to finding of facts, is minuscule and that the strictness of proof required in the Disciplinary Enquiry is not as high as is in Criminal Trial.

35. But when we talk of preponderance of probabilities, we are of the view that preponderance means all the allegations combined together and considered together. It is to be noted that complainant-B had not only levelled allegations qua petitioners conduct against herself, but she has also hurled allegation that the petitioner had misbehaved with ASI Alpana Mukherjee and K.R. Mondal. Such allegations show that the petitioner intended to expand the issue out of proportion.

36. It will not be out of place to reproduce the letter/representation in extenso:

*“Dear Sir,
I am a Lady Constable, Baby Ghosh. I am working in CISF unit DCC Dankuni. Sir, ASI/clerk Alpana Mukherjee of CISF Unit BCCL Dhanbad has proceeded on regular posting to CISF Unit BCCL Dhanbad, while she was in this unit the assistant Commandant used to misbehave with her. At that time I was in Office and both ASI/CIk Alpana Mukherjee and AC, together used to treat me badly because I*



could not go as per their wish. ASI/Lady Alpana Mukherjee went away from the Unit in the month of April, After which Assistant Commandant started troubling me even more.

2. the wife of Late P.K.Dey who expired in the unit used to come regularly to CISF Unit DCC Dankuni for seeking employment. At that time the Assistant Commandant told W/o Late P.K.Dey to come regularly to him, but the lady replied that why me, Alpana is there. After that the AC started speaking bad words to me like firstly, how many rooms in your house and if I go to your house will I be visible from the other room? Then I would reply, sir, you keep your own prestige. He used to tell me to call him over to my house or get me introduced to some other girl, otherwise he would see you.

3. The Assistant Commandant used filthy words to the lady cook Krishna Mondal thereafter the lady cook Krishna Mondal submitted her resignation and went away. While the lady cook was leaving the Unit for good, at that time I was performing duty at the main gate. She cried and told me that the AC had told her that, he would give her new clothes and money and in return she should come to him when he needs her. After the lady cook Krishna Mondal went away then the Assistant Commandant again started targeting me. I replied to AC Sir I am domestic women. I am having a mother-in-law, and husband staying with me and I cannot do anything.

4. After that I was detailed for Morning shift w.e.f. 16.9.1999. I did not say anything since there was shortage of manpower.

But after I returned from Durga Puja holiday (leave) I was detailed for a shift duty again. I told sir, please detail me at either main gate or central store. I can perform General shift continuously w.e.f. 0900 hrs. To 1700 hrs but the Assistant Commandant did not listen to me since I did not compromise with him.

5. The Assistant Commandant told also me that in the group office there are lady staff working there and I should get him introduced to them at some location. But I replied, Sir, You go yourself and talk since I cannot do it. I also told the Assistant Commandant, that Calcutta is a big city and if you pay money you will get what you need.

6. After Durga Puja holidays, when I reported on 26.10.1999 he told me the same words. After that I do not go near the Assistant commandant. I am performing duty at Gate-II continuously and also attend to the telephone. The Assistant commandant used to phone me and tell me in Hindi thera Kopatka doonga. At this I kept the phone down.

7. Sir, it is my request that the assistant Commandant should not target me and be at the back of me. I am having a 7 years old son studying in Bengali Medium (Morning School). It is requested that I may be given



*General shift and the Assistant Commandant should not be at the back of me in the next 04 months that I will be in CISF Unit DCC Dankuni.
Sir, Please keep my request.*

*Sd/-
xxxxxx”*

37. Neither the tenor of above representation which has been treated to be a complaint shows it to be a complaint nor does it clarify that to whom and for what purpose this letter was written. We could not find any date on the letter written by the complainant. It does not contain any date or even month, when the alleged incident took place.

38. A perusal of the memorandum of charges dated 05.06.2002 reveals that there were three allegations alleging that:

- i. he tried to develop illicit relations with the complainant-B;
- ii. he tried to sexually exploit another lady (Smt. Sabita Dey);
- iii. he tried to sexually exploit Krishna Rani Mondal;

39. If the statement of imputation of misbehaviour in relation to the allegations is perused, we find that the petitioner had allegedly asked the complainant-B that how many rooms are in her house, and if he went to her house, would she be visible from some other room, and that he told her to call him and introduce him to some other girls or lady staff.

40. So far as other charges relating to other female staff members are concerned, since they have been held to be not proved, those charges need not detain us.

41. While observing that the charge which has been found proved by the Enquiry Officer cannot be said to be proved in the face of the evidence led, the evidence adduced in relation there to is only complainant's oral assertions and not supported by any credible or corroborative evidence, we



strongly feel that even if it is presumed that such charge has been found proved by the Enquiry Officer, (as the threshold of giving a charge proved in disciplinary proceedings is very low), the punishment as grave as compulsory retirement ought not to have been imposed.

42. Indisputably, there is no similar allegation against the petitioner during his past tenure and no complaint has ever been received against him. Hence, the respondents ought to have objectively considered the matter and should have gone with the opinion expressed by the Special Secretary.

43. We also feel that the letter written by the complainant-B was motivated or actuated by some ulterior motive, maybe because of the fact that the petitioner had initiated action against her. The possibility that the exaggerated, if not, false complaint was filed because of the warning issued to her cannot be ruled out. Such defense which appeared plausible has not been given any credence by the IO.

44. Having regard to the fact that a period of about 25 years has since passed and the petitioner has attained 72 years of age, we feel that the least we can do is, to restore his honour, which according to us, has been destroyed by the action of ordering 'compulsory retirement'.

45. The petitioner present before us, at this stage has prayed that except for restoring the honour, he is not interested in any monetary gain and he would not ask for any consequential benefits and would remain satisfied with whatever pension or monetary benefits he is getting.

46. In view of this, we are persuaded to quash and set aside the order dated 26.10.2005, and Enquiry Report dated 08.03.2004, while holding that the conducting of third PE and consequential Disciplinary Enquiry were



itself uncalled for and the finding recorded by the Enquiry Officer was not in accordance with the evidence. Consequent to quashment of the order of compulsory retirement, the petitioner shall be deemed to have served the respondents until he attained the age of superannuation. The period between date of compulsory retirement (26.10.2005) and his date of attaining superannuation shall be notionally counted in his service. However, his pension shall be revised accordingly. Though he shall not get arrears of the pension, but shall be entitled to get consequential revised pension w.e.f. 01.03.2026.

47. Writ petition is allowed. No order as to costs.

**DINESH MEHTA
(JUDGE)**

**VIMAL KUMAR YADAV
(JUDGE)**

DECEMBER 19, 2025/nk