23.09.2026
Item No.04
Court No.11
Avijit Mitra

MAT 1677 of 2025
with
I.A. No. CAN 1 of 2025
with
I.A. No. CAN 2 of 2025

Union of India & Ors.
-Versus-
Dineshwar Singh

Mr. Anirban Mitra,
Mrs. Sarda Sha
... for the appellants
Mr. KBS Mahapatra,
Mr. Aditya Shit
....for the respondent

The present appeal has been preferred by the Union of India and its functionaries challenging a judgment dated 19th May, 2025 passed by the learned single Judge in a writ petition being WPA 18137 of 2013 which was preferred by the writ petitioner, namely, Dineshwar Singh (in short, Dineshwar) praying for quashing and setting aside *'the purported proceedings including the purported Final Order being annexure P-7, Show cause Notice being annexure P-9, Order of enhance penalty being annexure P-11, and Appellate Order being annexure P-14 and to reinstate the petitioner with all consequential benefits'*.

This case has a chequered history. Dineshwar was roped into a disciplinary proceeding (in short, DP) initiated through issuance of a chargesheet

vide memo dated 9th September, 2008. He participated in the said proceeding and the Enquiry Officer (in short, EO) submitted an inquiry report and forwarded the same to the disciplinary authority (in short, DA) and the DA passed the final order on 6th June, 2009 imposing a punishment that *'the pay of No. 852160079 HC/GD Dineshwar Singh be reduced by two stages from Rs. 8120/- to Rs. 7510/- in the time scale of pay for a period of two years with effect from the date of issue of this order. It is further directed that No. 852160079 HC/GD Dineshwar Singh will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay'*. Aggrieved by the same, Dineshwar preferred a statutory appeal which was disposed of by an order dated 17th August, 2009 enhancing the penalty to the extent of '*compulsory retirement from service with all admissible pensionary benefits*'. Challenging the said order, Dineshwar preferred a writ petition being W.P. No. 15485 of 2009 which was disposed of by an order dated 3rd January, 2013 observing, *inter alia,* that '*I do not think the petitioner should be deprived of the opportunity of lodging an appeal against the order inflicting on him enhanced penalty. Hence, I am of the view that the petitioner should be relegated to the appellate authority for lodging an*

appeal under r.46(3) of the rules'. Accepting the said order, Dineshwar preferred a statutory appeal which was disposed of by an order dated 23rd May, 2013 observing, *inter alia,* that the penalty awarded by the AA on 17th August, 2009 is well commensurate with the gravity of misconduct. Challenging the said order, the writ petition being WPA 18137 of 2013 was filed and the judgment delivered in the same has been impugned in the present appeal.

Mr. Mitra, learned advocate appearing for the appellants submits that Dineshwar being a member of the Central Armed Force was required to maintain a very high degree of discipline, decency and commitment to the force. The conduct of Dineshwar was found to be unbecoming of a member of the Force and the charges stood established against him. Considering the gravity of the charges, the AA rightly enhanced the penalty. The learned single Judge ought not to have substituted its own discretion for that of the competent authority. Reliance has been placed upon a judgment delivered in the case of *Union of India & ors. Vs. Diler Singh* reported in *(2016) 4 S.C.R. 473.*

He argues that it is well-settled that Courts cannot assume the function of the DA and decide the quantum of punishment. Such authority is

exclusively within the jurisdiction of the competent appellate authority. The only exception to such principle would be in those cases were a co-delinquent has been awarded a lesser punishment even when the charges of misconduct were identical. The learned single Judge glossed over the said issue and did not return any finding. Reliance has been placed upon a judgment delivered in the case of *Union of India & ors. Vs. Ex. Constable Ram Karan,* reported in *(2022)1 SCC 373*.

Mr. Mitra strenuously argues that the question as to whether there was a scuffle or how it occurred or what precipitated such scuffle is of no consequence when admittedly there was a scuffle which involved Dineshwar. Considering the gravity of the charges and the past conduct of Dineshwar, the AA rightly enhanced the punishment imposed by the DA. The said order of enhancement did not suffer from any jurisdictional error warranting interference of the learned single Judge. In support of such contention reliance has been placed upon a judgment delivered by a coordinate Bench of this Court in an appeal being *MAT 2990 of 2024 (Union of India & Ors. Vs. R. Kasivelu).*

According to Mr. Mitra, Dineshwar on the date of incident was under the influence of intoxication and considering the gravity of the charges, the punishment of compulsory retirement was issued.

The writ Court in the earlier round of litigation by an order dated 3rd January, 2013 relegated the issue for consideration of the AA only on the point as to whether the enhancement was proper. In strict consonance with such direction, the AA by the order dated 23rd May, 2013 affirmed the earlier order dated 17th August, 2009 disclosing the reasons and upon granting due opportunity of hearing. The learned single Judge, however, set aside the said order on the rudiments of a single observation that the enhancement of punishment to compulsory retirement was disproportionate. Surprisingly, such observation is totally contradictory to the findings of the learned single Judge arrived at paragraph nos. 30, 31 and 32 of the impugned judgment. In paragraph 32 it was remarked that *'this Court is aligned with proven charges against the petitioner and declines to interfere with the same*'. In view of such apparent inconsistency and contradiction, the judgment impugned is not sustainable.

Mr. Mahapatra, learned advocate appearing for Dineshwar, however, denies and disputes the contention of Mr. Mitra and drawing our attention to the provisions of section 8 of the Central Industrial Security Force Act, 1968 (in short, Act 1968) submits that *'the article of Charge no. I and II were not within the jurisdiction of the Disciplinary*

Authority' and that *'the provision confined in Proviso to Section 18 of the CISF Act 1968 the allegations contained in the Article of Charge-III is a nullity in the eye of law'*. The entire proceeding thus suffers from a jurisdictional error and as such the order passed in the second statutory appeal was rightly interfered with and punishment was reduced from compulsory retirement to stoppage of increment as directed by the DA.

He contends that the AA by the order dated 23rd May, 2013 did not interfere with the order passed by the AA on 17th August, 2009 though the same was clearly wrong. In the said conspectus, the learned single Judge rightly set aside both the orders dated 17th August, 2009 and 23rd May 2013 and directed disbursement of all dues and other statutory reliefs on the basis of the order passed by the DP on 6th June, 2009. The contents of paragraph nos. 30, 31 and 32 of the impugned judgment are the arguments advanced on behalf of respondents in the writ petition.

He further argues that the principles of disproportionate punishment are directly invocable in the facts and circumstances of the case more so when Dineshwar went outside the NHPC Main Gate on 19th May, 2008 at about 11.00 hrs after making entry in the out pass register kept at NHPC Main Gate Subansiri but such fact was not granted any

weightage by the AA while passing order dated 23rd May, 2013.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

In exercise of judicial review, the Court cannot re-appreciate the evidence on the basis of which the finding of misconduct has been arrived at. The Court can interfere only where there has been a violation of the principles of natural justice or when the finding of misconduct is not based on some evidence or when the penalty imposed is shockingly disproportionate. The judgment impugned in the present appeal does not disclose any reason as to why the punishment imposed by the AA by the order dated 23rd May, 2013 was interfered with. The final decision taken in paragraph 34 of the judgment also appears to be contrary to the findings of the learned single Judge in paragraph 32 of the impugned judgment wherein it has been remarked *inter alia* that '*this Court is aligned with proven charges against the petitioner and declines to interfere with the same*'.

Indisputably, the judgment impugned in the present appeal has not been challenged by Dineshwar and as such the only conclusion that can be drawn is that Dineshwar is not aggrieved by the order of punishment as imposed by the DA and

as such at this stage it cannot be argued that the charges against Dineshwar have not been established.

The discretion exercised by the AA in the order dated 23rd May, 2013 affirming the findings of the AA in the earlier order dated 17th August, 2009 stands supported with reasons. Such decision was taken upon granting due opportunity of hearing to Dineshwar and as such the learned single Judge ought not to have interfered with the same upon returning findings contrary to the ultimate decision. The learned single Judge erred in law in substituting the punishment imposed by the AA.

For the reasons discussed above, the judgment dated 19th May, 2025 impugned in the present appeal is set aside.

The appeal and the connected applications are, accordingly, disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Partha Pratim Roy, J.) **(Tapabrata Chakraborty, J.)**