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B.Paul Britto Vs The Addl. Chief Security Commissioner,

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Court : Chennai

Decided On : Nov-14-2025

Judge : Honourable Mr.Justice T. Vinod Kumar

Appeal No. : WP/9998/2019

Appellant : B.Paul Britto

Respondent : The Addl. Chief Security Commissioner,

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.11.2025

PRONOUNCED ON : 14.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR B.Paul Britto ... Petitioner vs

1. The Additional Chief Security Commissioner

Railway Protection Force, Southern Railway Chennai - 600 003. 2.Senior Divisional Security Commissioner / RPF / MAS Railway Protection Force,

Southern Railway Chennai - 600 003. 3.Assistant Security Commissioner Railway Protection Force RPF / W&S/ PER Southern Railway Chennai - 600 003. Respondents Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorari calling for the records in order dated 11.12.2014 passed by the 1st respondent confirming the order dated

14.02.2012 passed by the 2nd respondent who confirmed the punishment passed by 3rd respondent dated 14.10.2011 and quash the same. For Petitioner : Mr.K.Shanmugakani For Respondents : Mr.P.T.Ramkumar, Standing counsel.

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the records.

2. The case of the petitioner in brief is that while working as constable in the Railway Protection Force (RPF) he was visited with an

order of punishment withholding increments for three years; that the order

of punishment was issued mainly on the basis of the enquiry report containing two Articles of charges viz., (i) on 21.10.2010 the petitioner having damaged the scooter (TVS Scooty) of one woman constable; and

(ii) that on being called by his superior (i.e) Assistant Sub Inspector of Police to enquire into the complaint, he being in inebriated condition shouted on the officer.

3. It is the further case of the petitioner that on initiating enquiry against the petitioner on the above mentioned articles of charge, the enquiry officer after conducting enquiry submitted his report dated 19.09.2011, holding the first charge as proved, while the second charge is not proved.

4. It is contended by the petitioner that the initiation of enquiry itself

is illegal as the same has been initiated and proceeded only on the basis of suspicion as to the involvement of the petitioner without their being any evidence; that mere suspicion cannot form basis for initiating an enquiry; and thus, the impugned proceedings by which the petitioner is visited with punishment of imposing penalty of withholding of Annual increment for a period of three years is vitiated.

5. The petitioner further contended that the respondents on receiving

the complaint against the petitioner, placed him under suspension on 01.11.2010 and served the charge memo on 12.01.2011 (i.e.) after 72 days which action is contrary to Rule 135 of the Railway Protection Force Rules 1987 (in short Rules); that as per Rule 135 of the Rules, the charge should be served within 30 days from the date of suspension, and since, the charge memo has been served on 12.11.2011, the enquiry initiated and the further action resorted to by the respondent is contrary to Rules and thus, liable to be set aside.

6. Petitioner also contended that since, the whole enquiry is based on

suspicion i.e, the petitioner might have done or committed the alleged offence of damaging the complainant's two wheeler on 21.10.2010 for which the complaint is given on 22.10.2010, the petitioner cannot be saddled with punishment by the impugned order visiting him with penalty of withholding of three increments.

7. It is also contended that the order passed by the appellate authority

on 14.02.2012 dismissing the appeal of the petitioner and further revision vide order dated 11.12.2014 are all passed without application of mind, since, the evidence of the complainant and the witnesses examined clearly show that the petitioner is only a suspect and there is no material evidence that can be attributed to the petitioner for having committed the alleged offence.

8. It is further contended that since, the evidence for Articles of

charges No.1 and 2 is one and the same and the enquiry officer in his enquiry report having held that the second article of charge as not proved, the disciplinary authority on the basis of the same set of evidence could not have concluded that the first article of charge is proved against the petitioner; and that the first appellate authority and the revisional authority erred in confirming the same.

9. The petitioner further contended that the disciplinary authority,

> while passing the order visiting him with penalty of withholding of Annual increment for a period three years had proceeded on the basis of admission purported to have been made by him, without taking note of the fact that such confession was obtained from him under duress; that the statement obtained under duress is not admissible; and that the first appellate authority as well as the revisional authority failed to consider the aforesaid aspect while confirming the order of penalty.

10. The petitioner further contended that while the complaint given

against him shows that the alleged incident as having taken place on 22.10.2010, the charge sheet issued mentions the date of incident as 21.10.2010, and being self contradictory makes the entire proceedings initiated against him vitiated.

11. It is also contended by the petitioner that since, he is visited with punishment of withholding of Annual increment for a period three years, the

authorities are required to conduct an enquiry before making any order

imposing such punishment and inasmuch as no separate enquiry has been held, the order is vitiated in terms of Rule 158.2 of the Rules.

12. Contending as above, petitioner relied on the following decisions:-

(i) (1978) 3 SCC 366 - Nand Kishore Prasad v. State of Bihar and others

(ii) (1998) 7 SCC 310 - M.S.Bindra V. Union of India and others

(iii) (2006) 5 SCC 88 - M.v.Bijlani v. Union of India and others and

(iv) (2013) 4 SCC 301 - Nirmala J.Jhala V. State of Gujarat and another

13. Counter affidavit is filed on behalf of the respondents.

14. On behalf of the respondents, it is contended that in the charge sheet at only one place the date 21.10.2010 is mentioned; that the mention of date 21.10.2010 in the charge sheet is with reference to the petitioner

> being issued with order directing him to participate in the NDLS investiture parade requiring him to move from the station; and that while proceeding to participate in investiture parade at NDLS, the petitioner had committed the act of vandalism on 22.10.2010 by damaging the two wheeler/Scooty of the complainant/who is working as woman constable and a co-employee.

15. On behalf of the respondents, it is further contended that the

respondents while conducting enquiry and the disciplinary proceedings, afforded sufficient opportunity to the petitioner; and that the petitioner had availed the opportunity provided to him and did not raise any objection during the course of enquiry of he not being given sufficient opportunity.

16. On behalf of the respondents, it is contended that before the

> enquiry officer, the petitioner availed the opportunity of cross examining the witnesses produced on behalf of the respondent viz., PW1 to PW4, thus, the enquiry officer followed all the procedures including adherence to principal of natural justice and submitted his report; and that on the basis of the report, the petitioner was visited with the punishment by the impugned

order.

17. On behalf of the respondents, it is further contended that

> aggrieved by the impugned order, the petitioner had availed the remedy of appeal mainly contending that the charge sheet not having been issued within 30 days as per Rule 135 of the Rules; and that other than the aforesaid ground, the petitioner did not raise any ground relating to infraction of procedure or the proceeding initiated being vitiated as contended now.

18. On behalf of the respondents, it is contended that even in the

> revision petition filed against the order of the appellate authority confirming the order of disciplinary authority, the petitioner only choose to assail the action of the disciplinary authority on the ground as taken in the first appeal; and that the grounds now raised in the present writ petition with regard to the enquiry being based on mere suspicion and without any evidence or that the statement obtained under coercion, are all invented for the purpose of filing the present writ petition to cause prejudice against the respondents.

19. On behalf of the respondents, it is contended that the petitioner being a member of uniformed force is required to maintain strict discipline

> and is required to conduct himself in such a manner befitting uniformed force; that the conduct of the petitioner not only in relation to articles of charges mentioned in the charge sheet, but also on earlier occasion, only goes to show that the petitioner has been acting in utter disregard to the high decree of discipline and contrary to code of conduct; thus, the impugned

order does not suffer from any infirmity or procedural infraction warranting

interference by this Court.

20. On behalf of the respondents, it is further contended that as per

Rule 153.14 of the Rules, provisions of Code of Criminal Procedure, 1973 and Indian Evidence Act, 1872 do not apply to the Departmental proceedings initiated under the Rules for the petitioner to claim that no disciplinary proceedings should be initiated on the basis of suspicion or he can be visited with punishment due to lack of evidence; that since, the disciplinary authority followed the procedure as per Rule 153.15 of the Rules, the petitioner cannot claim impugned order to be vitiated on account of any procedural irregularities. Contending as above, the learned standing counsel for the respondents seek for dismissal of the writ petition.

21. I have taken note of the respective contentions urged.

22. At the outset it is to be noted that the petitioner is working as

constable and is a member of RPF (i.e,) a uniformed force governed by the provisions of the RPF Act, 1957 and Rules made thereunder. The petitioner being a member of uniformed service is expected to maintain high standard of discipline. However, a perusal of the copy of the proceedings initiated against the petitioner shows that the petitioner had involved himself in commission of vandalism particularly against the complainant, a college of work place.

23. Further, it is strait law that in a writ petition filed against the order

of disciplinary authority, the writ court does not act as an appellate Court, by examining the evidence that has been let in by the parties in minute detail. Though, the learned counsel for the petitioner by drawing the attention of this Court to the minute details of the evidence recorded

sought to contend that the petitioner being charged only on mere suspicion without any evidence, the said endeavour cannot be permitted as the same could amount this Court re-appreciating the evidence as an appellate authority, which is not to be undertaken in a writ petition filed under Article 226 of the Constitution of India. (See - Union of India and others V.

P.Gunasekaran - 2015 (2) SCC 610); & (Indian Oil Corporation and others v. Ajit Kumar Singh and another - (2023) 19 SCC 102)

24. The Writ Court in a challenge against the order of disciplinary

authority as confirmed by the appellate authority / revisional authority, is only required to see as to whether the order by which the delinquent officer is visited with penalty could have been passed on the basis of the material available or the punishment imposed is so harsh, that it shocks the conscious of the Court. The other ground of interference by the Writ Court is violation of principles of natural justice and non adherence to the statutory regulations resulting to procedural infraction. (See - 2022 SCC online SC 1617 - Union of India and others v. Subrata Nath)

25. Further, it is equally settled that in a writ petitions filed against an

order which has been the subject matter of appeal and revision, the

petitioner cannot be permitted to raise new pleas which were not taken in

the earlier proceedings, as the same would amount to re-evaluation of facts

as an appellate authority (See - Raj Kumar Dixit V. M/s.Vijay Kumar Gauri Shanker - (2015) 9 SCC 345)

26. In the light of the aforesaid settled position of law, if the case of

the petitioner is examined, though the petitioner claimed that the statement given by him admitting to have committed the act of vandalism of causing damage to a woman constable two wheeler (TVS Scooty) on the intervening night on 22.10.2010 at 9.45pm; that the statement was obtained under coercion and as such cannot be put against him for visiting him with the impugned order imposing penalty, firstly, no material is placed before this Court to show that the petitioner having taken the said plea at any time earlier during the course of enquiry proceedings or before the first appellate authority or in the revisional proceedings. Secondly, though it is claimed that the statement is obtained under coercion, the petitioner while cross examining PW2 did not even make a suggestion that the said statement was obtained from him under coercion. Thus, the statement given by the petitioner at the relevant point of time would have to be treated to be as an admission on his part.

27. Further, a perusal of the enquiry proceedings clearly go to show

that the petitioner not only did not raise the said plea, but in fact on the basis of the statement recorded, cross examined the witnesses examined on behalf of the Department / respondent herein. Thus, the contention of the petitioner of the statement being obtained under coercion is clearly an after thought and cannot be permitted to be raised at this stage.

28. The Hon'ble Apex Court in the case of Avadh Kishore Das v.

Ram Gopal and others - (1979) 4 SCC 790 held as under :- 24. ..... It is true that evidentiary admissions are not conclusive proof of the facts admitted and may be explained or shown to the wrong; but they do raise an estoppel and shift the burden of proof on to the person making them or his representative-in-interest. Unless shown or explained to be wrong, they are an efficacious proof of the facts admitted.....

29. Further, the petitioner having not taken any steps to retract the

statement at the relevant point of time which is now being alleged as having been obtained under coercion, would strengthen the aforesaid view arrived at by this Court.

30. Insofar as the claim of the petitioner, that the disciplinary action has been initiated on the basis of the complaint which is based on mere suspicion and suspicion cannot take the form of evidence, it is to be noted

> that one K.Janani, working as woman constable performing warden duty, who is examined as PW4, approached the duty officer and lodged the complaint of damage having been caused to her two wheeler/Scooty, parked in the vehicle garage; and that she is strongly suspects the petitioner to have indulged in the aforesaid vandalism due to previous enmity.

31. The authorities on receiving the complaint had secured the

> presence of the petitioner, who initially rebutted of he having committed the aforesaid vandalism. However, on being questioned, confessed to of having indulged in vandalism and regretted for the damage caused to the complainant's two wheeler, due to previous enmity. Further, the petitioner admitting his above act offered to bear the repair cost of the damaged vehicle. Upon the petitioner admitting to have committed the act of vandalism and offering to bear the cost of repair, he was relieved in the morning on 23.10.2010 to report to IPF/R/MAS and left the place.

32. In the matter of initiation of disciplinary proceedings, what is

required to be seen is as to whether in the given circumstances, the delinquent against whom the disciplinary proceedings are initiated could have resorted to said action/act. Thus, the disciplinary action is to be initiated not on the basis of strict rules of evidence and proof, but on the basis of principles of preponderance of probabilities, wherein the previous conduct of the delinquent also can weigh.

33. Since, the act of alleged vandalism committed raised a suspicion

as to the involvement of the petitioner, more particularly, as not having occurred in any public place, but having occurred in a place where access is restricted, the occurrence of such incident can only be related to a person who has access to the place, apart from the person being aware as to what he is doing.

34. In the facts of the present case, since, the petitioner knew that the

> subject vehicle belongs to the complainant / PW4 with whom he admittedly had previous enmity on account of she having lodged complaint against him, resulting in stoppage of one increment, it is but natural to assume the involvement of the petitioner in the commission of the aforesaid offence / act of vandalism, for the authorities to proceed against him. If only, the petitioner was not involved in the commission of aforesaid act of vandalism, there was no reason for him to be away from his barrack, to be found near Volley ball court in the late hours of the day, when the duty officer along

with some of his subordinates sought to secure the presence of the petitioner on receiving the complaint from the woman constable K.Janani.

35. The Hon'ble Apex Court in the case of Union of India v. Sardar Bahadur reported in 1972 (4) SCC 618 dealing with the disciplinary proceedings and standard of proof had held as under : -

15. ..... A disciplinary proceeding is not a criminal trial.

> The standard proof required is that of preponderance of probability and not proof beyond reasonable doubt. If the inference that Nand Kumar was a person likely to have official dealings with the respondent was one which a reasonable person would draw from the proved facts of the case, the High Court cannot sit as a court of appeal over a decision based on it. Where there are some relevant materials which the authority has accepted and which materials may reasonably support the conclusion that the officer is guilty, it is not the function of the High Court exercising

its jurisdiction under Article 226 to review the materials and to arrive at an independent finding on the materials. If the enquiry has been properly held the question of adequacy or reliability of the evidence cannot be canvaased before the High Court.....

36. The aforesaid principle of law, was reiterated again in a recent decision of the Hon'ble Apex Court in the case of Airports Authority of India v. Pradip Kumar Banerjee reported in 2025 SCC Online SC 1020.

37. Though the complainant in the complaint had stated of she

suspecting the involvement of petitioner, the fact of petitioner admitting to have committed the said act and also agreeing to bear the cost of repair resulted in suspicion taking the form of admission. Therefore, the claim of the petitioner that on mere suspicion, the authorities ought not to have imposed punishment does not merit consideration.

38. Insofar as the claim of the petitioner that on account of delay in

serving the charge memo beyond the period of 30days as mentioned in Rule 135 of Rules, renders the charge memo invalid, it will be useful to refer to Rule 135 of the Rules reading as under :- 135. Public interest shall be the guiding factor in deciding whether or not a member of the Force, including when he is on leave, should be placed under suspension: Provided that before taking a decision on suspension, the competent authority may

consider whether the purpose would be served if the member is transferred from his post or sanctioned leave : Provided further that charge on which a member has been placed under suspension shall be furnished to him within a period of thirty days from the date of suspension after which the incumbent shall be deemed to have been reinstated if no such charge is made available to him : Provided further that the above provision of thirty days shall not apply to cases where a member has

been placed under suspension on grounds that he has engaged himself in activities prejudicial to the interest and security of the State or a criminal case involving moral turpitude is pending against him.

39. Rule 135 of the Rules is in Chapter XI of the Rules under the

heading Discipline and Conduct. The said Rule deals with a member of force being placed under suspension. The second proviso to the said Rules deals with the time period within which a member of force placed under suspension is required to be furnished with the charge. The proviso further states that in the event of non furnishing of the charge within the time period prescribed under the proviso, results in the suspension being revoked and the incumbent being reinstated as no charges is made available to him.

40. Though the petitioner claimed that on account of the charge memo

not being served on him within thirty days, the respondents are precluded from issuing charge memo as noted herein above, the proviso does not provide for outer time limit for issuing a charge memo or that on account of non issuance of charge memo within thirty days, the authorities being precluded from initiating the action subsequently.

41. On the other hand, the proviso only deals with the period of suspension and the consequence of non issuance of charge memo within thirty days resulting in reinstatement and not otherwise as contended by the petitioner.

42. Further, in the facts of the present case, the respondent by the

counter affidavit having stated that petitioner being subjected to medical examination with regard to second charge and the delay caused in getting the medical reports from the authorities to initiate action against the petitioner, it cannot be said that on expiring of 30 days period, the authority is denuded of its power to initiate disciplinary action against the

member of force, who is found to have acted in violation of the code of conduct. Thus,

the contention of the petitioner on this ground is liable to be rejected and accordingly, rejected.

43. Coming to the other contention of the petitioner that since he was

visited with punishment of withholding of Annual increment for a period three years, a separate enquiry is required to be held as per Rule 153 of Rules; that no such enquiry was held before imposing punishment, and thus, the order of punishment is liable to be set aside, a reading of Rule 158.2 of Rules shows that only in the event of the punishment sought to be imposed has an effect for a period exceeding three years or reduction by more than three stages in scale of pay, an enquiry in the manner laid down under Rule 153 is mandatory. Since, by the proceedings dated 14.10.2011, the petitioner is visited with penalty of withholding of Annual increment for three years, it cannot be said that the said punishment awarded is exceeding three years period requiring an enquiry to be held as contemplated under Rule 158.2 of the Rules. Thus, the contention of the petitioner on this ground has to fail.

44. Insofar as the punishment awarded to the petitioner as confirmed in appeal and in further revision is concerned, as noted herein above, the

respondents having conducted enquiry by following the procedure laid down and the petitioner having participated in the said process by availing all the opportunities and the respondents on the basis of the principal of preponderance of probabilities pointing to the involvement of the petitioner coupled with the fact of the admission made by the petitioner and also undertaking to bear the repair cost of the damaged vehicle, having passed the order awarding punishment, the said order cannot be said as without any basis (as confirmed in appeal and revision) or the punishment / penalty imposed is so disproportionate,

shocking the conscious of the Court for it to be interfered with.

45.Since, the disciplinary authority had taken the overall circumstances of the act of vandalism resorted to by the petitioner who is a member of uniformed force requiring to conduct himself in a disciplined manner and having failed to maintain the discipline expected of him, the punishment awarded cannot be said as either excessive or shocking the concious of the Court. Accordingly, the challenge on this ground also fails.

46. Further, the petitioner was visited with punishment order dated 14.10.2011, of withholding of annual increments for three years. Aggrieved

by the aforesaid order, the petitioner filed an appeal before the appellate authority on 03.11.2011 and the same was disposed of by the appellate authority by its order dated 14.02.2012. The petitioner thereafter chose to remain silent and allowed the order to attain finality. It is only after the lapse of two years, preferred revision which came to be rejected by the revisional authority vide order dated 11.12.2014. The revisional authority while rejecting the petitioner noted the above fact of delay of two years in filing revision. The petitioner thereafter once again went into silence and after lapse of 4years and 4months and without offering any plausible explanation for delay in approaching this Court at the earliest point of time, filed the present writ petition in the year 2019. This only indicates the casual approach on the part of the petitioner.

47. The Hon'ble Apex Court in the case of Chennai Metropolitan

Water Supply & Sewerage Board and others v. T.T. Murali Babu reported in (2014) 4 SCC 108 dealt with the aspect of delay and laches, and observed as under: 16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the

acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional

court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant - a litigant who has forgotten the basic norms, namely, procrastination is the greatest thief of time and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.

48. The Apex Court in the case of Karnataka Power Corporation Ltd. vs. Thangappan and another reported in (2006) 4 SCC 322 observed as under:

6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in Durga Prashad v. Chief Controller of Imports and Exports [(1969) 1 SCC 185 : AIR 1970 SC 769] . Of course, the discretion has to be exercised judicially and reasonably.

49. Further in the case of State of Jammu & Kashmir v. R.K. Zalpuri and others reported in (2015) 15 SCC 602, the Apex Court has

held as under :-

27. The grievance agitated by the respondent did not deserve to be addressed on merits, for doctrine of delay and laches had already visited his claim like the chill of death which does not spare anyone even the one who fosters the idea and nurtures the attitude that he can sleep to avoid death and eventually proclaim deo gratias-thanks to God.

50. A conspectus of the aforesaid decisions when applied to the facts

of the present case, drives this Court to an inevitable conclusion that the orders impugned not only do not suffer from any error or perversity or can the petitioner be stated as having been inflicted with punishment unwantendly and without any material but also suffers on account of delay and laches and is thus, liable to be rejected.

51. The reliance placed by the petitioner on the decisions of the

Hon'ble Apex Court does not advance the cause of the petitioner. On the other hand, the judgments relied on by the petitioner also apply the principle of preponderance of probabilities. Since, the probability of involvement of the petitioner in committing the act of vandalism cannot be ruled out, the orders impugned cannot be said as without any basis for it to be interdicted by this Court.

52. Thus, considered from any angle, the present writ petition as filed is devoid of merit and is dismissed. No order as to costs. 14.11.2025

Speaking order / Non-speaking order

Index : Yes / No Neutral Citation : Yes / No tsh To

1. The Additional Chief Security Commissioner

Railway Protection Force, Southern Railway, Chennai - 600 003. 2.Senior Divisional Security Commissioner / Rpf / MAS Railway Protection Force, Southern Railway, Chennai - 600 003. 3.Assistant Security Commissioner Railway

Protection Force RPF / W&S/ PER Southern Railway, Chennai - 600 003.

T. VINOD KUMAR, J.

tsh Pre-Delivery Order in 14.11.2025.

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