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

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Date of Decision: March 31, 2014

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**W.P.(C) 5989/2003**

FAUJA SINGH

..... Petitioner

Represented by: Mr.O.P.Agarwal, Advocate with  
Mr.Deepak Agarwal, Advocate

versus

UOI & ORS

..... Respondents

Represented by: Ms.Niti Arora, Advocate for  
Mr.Sachin Datta, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**

**HON'BLE MR. JUSTICE JAYANT NATH**

**PRADEEP NANDRAJOG, (ORAL)**

1. Working as an Inspector with Central Industrial Security Force (CISF), a charge memo was served upon the writ petitioner on August 06, 1997 listing three charges as under:-

**“ARTICLE OF CHARGE-I**

*No.751080256 Insp/Exe.Fauja Singh is charged for having committed acts of gross indiscipline and misconduct in that he developed connection with one civilian named Debabrata Kanjilal alias Debu Kanjilal, resident of Road No.5, C/1/8, New Town, Burnpur and engaged himself in a clandestine deal with the latter, in extracting money from the reserve candidate, whose names appeared in the waiting list for the post of Constables in CISF for which recruitment was held on*

*22.2.96 at Farakka, on the assurance of giving appointments in CISF suppressing the very fact that those reserve candidates have already been cleared for appointment in the post of Constable in CISF. Hence the charge.*

### **ARTICLE OF CHARGE-II**

*No.751080256 Insp/Exe Fauja Singh is charged for having committed acts of sheer indiscipline and misconduct in that he secretly passed on information relating to personal details (names and home addresses) of the aforesaid reserve candidates enlisted for appointment in CISF to one Debabrata Kanjilal and hatched a conspiracy to collect money (illegal gratification) from all the six reserve candidates by contacting them at their native place through the latter thereby divulging official information to outsiders for personal gain and involving himself directly and indirectly in an attempt to collect illegal gratification. Hence the charge.*

### **ARTICLE OF CHARGE-III**

*An act prejudicial to the good order and discipline of the Force in that No.751080256 Insp/Exe Fauja Singh did not inform the competent authority though being aware of the fact that he was implicated by the arrested accused, Debabrata Kanjilal alias Debu Kajilal in connection with Hirapur Police Station case No.48/96 dated 23.4.96 under Section 420 IPC for making an attempt to receive illegal gratification from the reserve candidates enlisted for appointment to the post of Constable I CISF as disclosed by the arrested accused, Debabrata Kanjilal before the Police of Hirapur Police Station after being trapped by Gouri Sankar Kanjilal, officer-in-Charge, Hirapur Police Station and arrested by him for which Inspector/Exe Fauja Singh moved the District Sessions Court, Burdwan and later High Court, Calcutta for anticipatory bail which were rejected by both the courts. Hence the charge.”*

2. At the departmental inquiry eleven witnesses were examined by the department and their testimony is being noted by us.

3. SI G.S.Kanjilal PW-1 deposed that on the day of the incident i.e. April 23, 1996 one Dipak Biswas (PW-10) visited Hirapur Police Station along with SI S.K.Deb (PW-11) and informed him that on April 18, 1996 at about 17:15 hours one Debabrata Kanjilal DW-4 (also known as Debu) visited his native house and demanded ₹40,000/- (Rupees Forty Thousand only) as illegal gratification for appointment as a Constable in the CISF. He told that he was sent by the petitioner and asked Dipak Biswas to pay him the said amount at his quarter in New Town latest by April 23, 1996. At this, he visited Kolkata and apprised the DIG about the incident. The DIG directed him to visit Hirapur Police Station along with SI S.K.Deb. Dipak Biswas was carrying currency notes worth ₹5,000/- (Rupees Five Thousand only). As directed by the ASP (Asansol) he laid a trap to nab Debabrata. As a part of the trap SI S.K.Deb and Dipak Biswas had affixed their signatures on five of the said currency notes. Thereafter, he left for New Town along with Dipak Biswas, SI S.K. Deb and two other officers. They reached New Town at around 12:05 hours. Dipak Biswas and SI S.K.Deb (who was in civilian clothing) entered Quarter No.C/1/8 belonging to Debabrata. The other officers stood by outside the quarter. After around 15 minutes he entered the quarter along with two witnesses. On searching Debabrata they found the aforementioned amount of money in his right pocket. He prepared a seizure list with respect to the money and obtained the signatures of the witnesses and officers present. He also seized a chit containing the names and particulars of six candidates (including Dipak Biswas). They found another chit which was handed over to Dipak Biswas by Debabrata wherein the

latter asked Dipak Biswas to inform some other candidate to immediately pay ₹40,000/- (Rupees Forty Thousand only) for appointment as a cook in the CISF. Upon his interrogation after his arrest, Debabrata stated that he was acting as per the directions of the petitioner who had asked him to approach the said six candidates and extract ₹40,000/-(Rupees Four Thousand only) from each one of them. He also stated that he got in touch with the petitioner through one Ct.Makhan Singh, Crime Branch, CISF (PW-3). On returning back to the Police Station he made a suo moto complaint as Hirapur PS Case No.48/1996 dated April 23, 1996 under Section 420, IPC. He endorsed the investigation of the case to SI S.Sarkhel.

4. On being cross-examined by the petitioner he stated that he apprised the Commandant Lt.Col.R.S.Sehgal (DW-1) about the incident via telephone the next day. On being questioned, if the confession made by Debabrata was judicial confession, he answered in the negative. He clarified that the said ₹5,000/- (Rupees Five Thousand only) were brought by Dipak Biswas.

5. Nk.Rameshwar Chaudhary PW-2 deposed that at the relevant time he was posted at CISF unit, IISCO, Burnpur where he got acquainted to Ct.Makhan Singh (PW-3) and Debabrata (DW-4). Debabrata used to visit the quarter adjacent to his deliver tuitions to the children of L/Nk. B.N.Roy (PW-4). They used to visit his quarter occasionally to chit-chat. Petitioner asked Ct.Makhan Singh and he, to introduce him to some clever Bengali person for some work. He introduced the petitioner to Debabrata. Thereafter, before the commencement of the recruitment process Debabrata visited him at his quarter and proposed that they could extract money from the recruitment candidates. He outrightly rejected the proposal at which Debabrata called him a coward. After a lapse of few days he heard about

Debabrata's arrest in connection with demanding bribe from the recruitment candidates.

6. On being cross-examined by the petitioner he stated that Petitioner wanted to meet some civilian person for the work. He stated that he got acquainted with Debabrata as he used to visit the adjacent quarter to deliver tuitions to the children of L/Nk.B.N.Roy (PW-4).

7. On being cross-examined by the Inquiry Officer he stated that the petitioner had handed over a paper to Debabrata in his presence. However, he did not know what was written on it. On being questioned if the petitioner had ever threatened him, he answered that he did not remember. He also did not remember if petitioner and Debabrata had ever spoken in his presence about extracting money.

8. Ct.Makhan Singh PW-3 deposed that sometime during the month of April 1996 petitioner paid him a visit and asked him to affix his signatures on a blank sheet of paper. When he asked the petitioner why did he want him to do that, petitioner stated that a complaint had been lodged against the petitioner and he, in relation to demanding bribe from CISF recruitment candidates. Therefore, the petitioner needed his signature to file anticipatory bail applications on behalf of the two of them. Thereafter he was summoned by the Commandant Lt.Col.R.S.Sehgal (DW-1) upon which he narrated everything about the petitioner meeting him and asking him to affix his signature on a blank sheet of paper for anticipatory bail.

9. On being cross-examined by the petitioner he stated that he did not know who Debabrata was.

10. On being cross-examined by the Inquiry Officer he stated that he visited the quarter of Nk.Rameshwar Chaudhary (PW-2) occasionally. He stated that he had never met Debabrata.

11. L/Nk.B.N.Roy PW-4 deposed in sync with Nk.Rameshwar Chaudhary (PW-2).

12. Petitioner refused to cross-examine the witness despite opportunity being granted.

13. On being cross-examined by the Inquiry Officer he stated that he had never seen the petitioner in the quarter of Nk.Rameshwar Chaudhary (PW-2) along with Debabrata Kanjilal. However, he had seen Ct.Makhan Singh (PW-3) visit the quarter of Nk.Rameshwar Chaudhary a couple of times.

14. Ct.A.Samanta PW-5 deposed that on April 16<sup>th</sup> or 17<sup>th</sup>, 2004 sometime in between 12:00-13:00 hours Debabrata (DW-4) met him and said that he had come from CISF Unit, IISCO, Burnpur could get him enrolled in the CISF if he was ready to pay ₹30-35,000/- (Rupees Thirty-Thirty Five Thousand only). Debabrata asked him to meet him at Chitra Cinema, Burnpur with the money. When he stated that he would not give him any money Debabrata got annoyed and told him that he would ensure that he does not get selected. Debabrata took his passport size photograph as a proof that he visited him.

15. On being cross-examined by the petitioner he stated that he had never seen the petitioner and the petitioner had never directly extorted money from him.

16. Ct.Pratul Kumar Mandal PW-6 deposed that on April 17, 1996 Debabrata (DW-4) along with another person visited him and told him that if he wished to be enrolled in the CISF he will have to pay ₹40,000/- (Rupees

Forty Thousand only). At this, he took them to his house and asked Debabrata who had sent him and what guarantee did he have that he would get recruited. Debabrata told him that he had come from CISF Unit, IISCO, Burnpur and was sent by the petitioner. He showed him a list of reserve candidates which also included his name; and told him that the money was to be paid at Debabrata's residence in New Town, IISCO, Burnpur on April 22, 1996. He stated that he did not have such a huge amount of money. At this, Debabrata showed him the passport size photograph of some candidate and told him that the candidate had agreed to pay the said amount. Thereafter, a CISF officer from the office of DIG, Calcutta visited him after a couple of days and asked him not to give any money to any officer for recruitment.

17. On being cross-examined by the petitioner he stated that he had never seen the petitioner and the petitioner had never directly extorted money from him.

18. Ct.Paresh Chand Pal PW-7, Ct.Rajjak Ali PW-8 and Ct.Md.Ali Zinna PW-9 deposed on the same lines as Ct.A.Samanta (PW-5) and Ct.Pratul Kumar Mandal (PW-6) about Debabrata (DW-4) paying them a visit at their native village and demanding ₹40,000/- (Rupees Forty Thousand only) for their recruitment in the CISF. Petitioner posed the same line of questions to all of them during their cross-examination. All of them stated in sync saying that they had never seen the petitioner and the petitioner had never directly extorted money from any of them.

19. Ct.Dipak Biswas PW-10 deposed in sync with SI G.S.Kanjilal (PW-1) with the addition that inside the quarter of Debabrata (DW-4) he handed over ₹5,000/- (Rupees Five Thousand only) to him calling it an advance

payment. He told him the remaining amount of money was being arranged as they speak. Thereafter, other officers entered the quarter and arrested Debabrata.

20. On being cross-examined by the petitioner he stated that he had never seen the petitioner and the petitioner had never directly extorted money from him.

21. SI S.K.Deb PW-11 deposed in sync with SI G.S.Kanjilal (PW-1) and Ct.Dipak (PW-10).

22. On being cross-examined by the petitioner he stated that an Inspector/Executive in the CISF does not have the power to appoint Constables in the CISF. He stated that the Commandant Lt.Col.R.S.Sehgal (DW-1) visited Hirapur Police Station and discussed the matter with the police officials. He did not know if the Commandant was informed about Debabrata implicating the petitioner.

23. On being cross-examined by the Inquiry Officer he stated that he did not remember if he had affixed his signatures on the seizure list.

24. The petitioner examined four witnesses in defence and we note their testimony.

25. Lt.Col.R.S.Sehgal, Commandant DW-1 deposed that he had personally been observing the petitioner's functioning and he found the petitioner quite efficient and honest. In the third week of February 1996 he was detailed as the presiding officer, and proceeded to Farakka for recruitment. Petitioner and a few other officers were accompanying him to



control the crowd and peacefully complete the recruitment. Before leaving for Farakka, he had received various phone calls from CISF officers asking him to recruit certain candidates at which he point blank refused. On reaching Farakka he found the crowd to be very unmanageable. He conducted the recruitment as per the requisite norms and procedure. Many candidates tried to influence them but he did not oblige. He even registered an FIR against some candidates claiming to be close to an Ex-Minister and some MLAs. As a result of this a lot of candidates were unhappy and disgruntled. Earlier on April 7, 1996 at around 22:00 hours a clash had taken place at SCOB Gate, IISCO, Burnpur where a number of CISF personnel and IISCO employees were injured. Asst.Comdt.J.S.Negi who was at the spot could not do much to contain the situation. The Officer-in-Charge (OIC) of the Hirapur Police Station SI G.S.Kanjilal (PW-1) reached the spot and attributed the entire blame to Asst.Comdt.J.S.Negi., and even filed a report indicting Asst.Comdt.J.S.Negi. Subsequently on the day of the incident, he received a telephone call apprising him about the arrest of a tout named Debabrata Kanjilal who was implicating the petitioner and Ct.Makhan Singh. He immediately left for Hirapur Police Station where he met the ASP, Asansol and asked him to proceed as per the legal procedure. He directed Asst.Comdt.A.C.Deb to conduct a preliminary enquiry and submit the report to him. After examining the report he opined that a prima facie case was not established against the petitioner and others. Petitioner met him and told him that he wanted to file an application seeking anticipatory bail. At this, he told the petitioner that must do whatever he deems fit to protect himself. Petitioner also told him that some disgruntled CISF officers held a grudge against him. The kith and kiln of the candidates

who were not recruited also wanted the petitioner to be the scapegoat. Petitioner felt that such persons had access to the proceedings of the recruitment board and therefore knew about the particulars of the candidates reserved for recruitment. Thereafter, various inquiries were ordered by DIG, North East Zone. Many senior officials took undue interest in the case, and were seen with the officials involved in serious disciplinary cases. He stated that he felt that officers were trying to inflict pressure on the petitioner. He also stated that police authorities were trying to avenge the earlier clash between the CISF personnel and the IISCO employees on April 07, 1996 where a bitter blame game had taken place between the CISF and the police personnel.

26. On being cross-examined by the Inquiry Officer he stated that petitioner had obtained his written permission before making an application for anticipatory bail. He stated that the said disgruntled people believed that the petitioner had some influence over the recruitment board.

27. SI/Exe Manohar Singh DW-2 deposed that on April 7, 1996 at around 22:00 hours a clash took place between the CISF personnel and IISCO employees at SCOB Gate wherein several CISF personnel and IISCO employees were injured. Thereafter O/C Hirapur Police Station SI G.S.Kanjilal (PW-1) visited the spot and misbehaved with Asst.Comdt. J.S.Negi. The O/C Hirapur Police Station was angry because Asst.Comdt.J.S.Negi had refused to act as per his directions. The O/C put the entire blame on Asst.Comdt. J.S.Negi and even lodged a complaint against him. He also stated that when the petitioner visited Hirapur Police Station to enquire about the incident the O/C expressed his anger about the

incident and used filthy language against CISF personnel. Thereafter, the police never cooperated with the CISF.

28. HC B.B.Das DW-3 deposed in sync with SI/Exe Manohar Singh (DW-2).

29. Debabrata Kanjilal DW-4 deposed that he was a teacher by profession and he did not know any CISF officers. He denied knowing the petitioner at all. He stated that Ct.Dipak Biswas (PW-10) was his friend. He was forcefully involved in the case by Ct.Dipak Biswas (PW-10) and SI G.S.Kanjilal (PW-1). On the day of the incident Ct.Dipak Biswas and SI G.S.Kanjilal visited his quarter and put a paper and some money in his pocket. He was forcefully arrested. SI G.S.Kanjilal beat him and forced him to implicate the petitioner. Thereafter he was sent to judicial custody. He narrated the true facts before the magistrate.

30. Thereafter petitioner made a statement in defence before the Inquiry Officer in which he stated that the Commandant Lt.Col.R.S.Sehgal (DW-1) and he reached the CISF unit at Farakka on February 21, 1996. He performed the 'crowd control' and ground duty as per the instructions of the recruitment board. Lt.Col.R.S.Sehgal appreciated his devotion and sincerity. Thereafter, on April 07, 1996 a clash took place between some CISF officers and IISCO employees at SCOB Gate, IISCO Burnpur. Asst.Comdt.J.S.Negi was the only senior officer at the spot. Thereafter SI G.S.Kanjilal (PW-1), the OIC of Hrapur Police Station reached the spot and misbehaved with Asst.Comdt.J.S.Negi. He felt insulted when Asst.Comdt.J.S.Negi refused to follow his instructions; and tried to attribute as much blame as possible to Asst.Comdt.J.S.Negi and other CISF personnel. Two days later, he visited

Hirapur Police Station to get an official report of the incident. SI G.S.Kanjilal misbehaved with him and refused to give any information about the incident. SI G.S.Kanjilal threatened him that he would deal with Asst.Comdt.J.S.Negi and other CISF officers. Thereafter on April 23, 1996, on the complaint of Ct.Dipak Biswas (PW-10), SI G.S.Kanjilal got an opportunity of implicating the petitioner. SI G.S.Kanjilal arranged ₹5,000/- (Rupees Five Thousand only) and handed over the said amount to Ct.Dipak Biswas to hand over to Debabrata (DW-4). He was informed by the Commandant about the alleged implication. Two days later, he was summoned by Asst.Comdt.A.C.Deb who told him that the Commandant had instructed that a preliminary enquiry be conducted, and asked him to submit a statement in his defence. He was even advised by the Commandant to protect himself if he felt that someone was conspiring against him. After consulting his advocate he moved an application seeking anticipatory bail. Thereafter, he received from his advocate, a copy each of two statements made by Debabrata Kanjilal before the Jail Superintendent, Asansol and the Executive Magistrate, Asansol Court wherein Debabrata admitted being coerced by the local police to implicate the petitioner (D/Ex-4). He was placed under suspension on June 14, 1997. Around two weeks later, a civilian visited his residence and told him that the DIG/NZ wanted him to implicate the name of a senior officer in the case and should he do so, he will be let go. At this he point blank refused. Thereafter, around four weeks later another Commandant summoned him to his chambers and told him that his suspension would be withdrawn if he implicated a senior officer. At this, he stated that he would never render a false statement and was ready to face

any consequences whatsoever. He received the charge-sheet on August 14, 1997.

31. The Inquiry Officer has held charges No.I and II as proved. Article III of the charge has been held to be not proved.

32. Penalty imposed upon the petitioner vide order dated August 31, 1998 against which appeal filed was rejected on November 15, 2001 and the revision filed was rejected on November 28, 2001 imposes penalty of reduction to lower stage in the time scale of pay for a period of five years with further direction that the petitioner will not earn increment of pay during the period of reduction and after the expiry of the period the reduction will have the effect of postponing his future increment.

33. From a perusal of the testimony of the witnesses we find involvement of Ct.Makhan Singh emerging more gravely if we keep into account the testimony of Nk.Rameshwar Chaudhary PW-2. Even the testimony of SI G.S.Kanjilal PW-1 brings out a deeper involvement of Ct.Makhan Singh.

34. Learned counsel for the respondent concedes that no action whatsoever was taken against Ct.Makhan Singh.

35. From the testimony of PW-1 the only incriminating evidence emerging against the petitioner is that when he laid the trap at which Debabrata Kanjilal was caught red handed he told that Ct.Makhan Singh had facilitated his meeting with the petitioner. It is apparent that even if made by Debabrata Kanjilal said statement would be by an accused against a co-accused with dismal credibility requiring corroboration. As per Nk.Rameshwar Chaudhary, Debabrata Kanjilal used to visit the Quarter adjacent to his to teach the children of L/Nk.B.N.Roy and he had introduced Debabrata Kanjilal to the petitioner. L/Nk.B.N. Roy PW-4 corroborated

PW-3. The other witnesses have not deposed to petitioner's involvement at all.

36. The slender tainted evidence of a co-accused without any corroboration does not inspire any confidence when we keep into account the testimony of the four defence witnesses one of whom was the Commandant. We find that the Inquiry Officer has not weighed the testimony of the defence witnesses.

37. From a perusal of the testimony of Lt.Col.R.S.Sehgal, the Commandant, who deposed as DW-1, the petitioner had no role in the selection process. He was a part of a team which was to control the crowd so that the recruitment process could be completed peacefully. In his testimony Lt.Col.R.S.Sehgal has categorically stated that he was the presiding officer in-charge of the recruitment process and that he had been receiving telephone calls from senior CISF officers asking him to recruit certain candidates and that he had refused point blank. As per him political pressure was brought upon him to make wrong appointments which he refused.

38. It is settled law that while appreciating the evidence the defence evidence has to be given due weightage. Of course, if reasons are to be found, so stating, a defence version may be rejected. But certainly not summarily.

39. Reiterating that if at all it was Ct.Makhan Singh's role which emerges with deeper involvement, coupled with the fact that the petitioner had no role to award marks or appraise the prospective candidates; his involvement being to simply control the crowd, it would be a case of no evidence to hold against petitioner's guilt vis-à-vis Article-I and Article-II of the charge.

40. The petition is allowed. Impugned order dated August 31, 1998 levying penalty is quashed. The appellate and revisional order dated November 15, 2001 and November 28, 2001 are quashed. Direction is issued to restore the salary payable to the petitioner and arrears to be paid within six weeks from today failing which the same shall be paid with interest @ 8% per annum reckoned from six weeks hereinafter till when payment is made. If the penalty had an adverse impact on petitioner's promotion, review DPC shall be held as of the date persons junior to the petitioner were promoted. Ignoring the penalty levied entitlement of the petitioner for promotion would be reconsidered and if entitled to be promoted, promotion order would be issued with retrospective effect from the date when person immediately junior to the petitioner was promoted with consequential benefits such as notional pay fixation etc. but not actual back wages which we deny on the principle of not having shouldered the responsibility of the higher post the petitioner would not be entitled to the difference in wages.

**(PRADEEP NANDRAJOG)**  
**JUDGE**

**(JAYANT NATH)**  
**JUDGE**

**MARCH 31, 2014**  
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