

The petitioner Mukti Nath Singh was charged with exhibiting gross misconduct, indiscipline and negligence in duty on account of the fact that while being posted at the Magazine of Headquarter Sector, CISF Unit OIL at Duliajan as a Kote NCO, he had taken weekly stock of the arms and ammunitions on 18.03.2012 and 25.03.2012 and found 3(three) Small Machine Gun magazines in excess. He in collusion with another member of the Force and with wrongful intent returned the 3(three) magazines to Kote NCO HC/GD Om Prakash Thapa and his Assistant Constable posted at the Industrial Sector of the Unit, which they had lost from that Kote on a consideration of '30,000/-. The money was divided equally between the petitioner and one Constable Parmanand Yadav. However, when the transaction came to light, the petitioner returned his share of '15,000/- in the presence of higher authority. On the said allegations, charge was made and the petitioner was subjected to a disciplinary inquiry.

2. Upon conclusion of the disciplinary proceedings, a Final Order dated 05.10.2012 was passed by the Disciplinary Authority after taking note of all evidence on record. The Disciplinary Authority arrived at the finding that the act of the petitioner was serious and criminal in nature which cannot be pardoned. It was also held that the image of the disciplined force had been diminished by the act of the petitioner. Taking note of his long period of service and the future of his family, the Disciplinary Authority imposed penalty of reduction of pay by 4(four) stages from '10660 + 2800 GP (13460/-) to '9150 + 2800 GP (11,950/-) for a period of five years with further stipulation that he will not earn increment during the period of reduction and the said reduction will have the effect of postponing his future increment of pay.

3. The matter did not rest there. The Revisioning Authority in exercise of powers under Rule 54 (1) of the Central Industrial Security Force Rules, 2001 (hereinafter referred to as the Rules of 2001) took up the case of the petitioner suo motu and proceeded to make fresh Inquiry for consideration of the punishment imposed upon the petitioner. The Inquiry proceeded by issuance of the Show Cause Notice dated 10.12.2012 by indicating that the penalty imposed by the Disciplinary Authority was not commensurate to the offence that stood proved against the petitioner. Accordingly, the petitioner was given an opportunity to make representation as to why the punishment imposed by the Disciplinary Authority should not be replaced by enhancing it to compulsory retirement from service with all pensionary benefits.

4. An effective representation was made by the petitioner on 24.12.2012 pursuant to the Show Cause Notice dated 10.12.2012. On consideration thereof, the Revisioning Authority i.e. the Deputy Inspector General of Police, CISF Unit, OIL, Duliajan passed the order dated 21.01.2013 setting aside the punishment imposed by the Disciplinary Authority and replacing the penalty to one of compulsory retirement with full pensionary benefits. While passing the said order dated 21.01.2013, the Revisioning Authority took notice of the fact that the Disciplinary Authority in its Final Order dated 05.10.2012 had dealt with all the issues and the defence adduced in a very detailed manner and the petitioner has been unable to put forward any new argument or evidence for giving any relief. It was also recorded that the misdeed of the petitioner had been duly proved during the departmental inquiry, which he was not in a position to deny. As against the said order dated 21.01.2013, the petitioner invoked Rule 52 of the aforesaid Rules of 2001 by preferring an appeal before the Inspector General (North East), CISF, Kolkata. The said appeal, upon due consideration, received the same fate and was dismissed by order dated 10.08.2013 by way of affirming the order of the Revisioning Authority. A further Revision was made before the Director General, CISF, which also stood dismissed on 27.01.2014 on ground that the same was devoid of merit.

5. Mr. R. Mazumdar, learned counsel for the petitioner submits that when the Disciplinary Authority after taking note of the pros and cons of the c

ase and upon due consideration of all evidence on record had imposed penalty, the same did not warrant any further interference at the hands of the Revisioning Authority. Submission made is that the Revisioning Authority had exercised powers under Rule 54 of the aforesaid Rules of 2001 by way of replacing the penalty to compulsory retirement without there being any basis and/or materials on record in support thereof. Mr. Mazumdar makes reference to the order of the Revisioning Authority dated 21.01.2013 to say that no new materials was found by the Revisioning Authority beyond what had already been found and proved against the petitioner for replacing the penalty to one of compulsory retirement with full pensionary benefits. It is also submitted that while rendering the order dated 21.01.2013, the Revisioning Authority completely lost sight of the fact that the petitioner had served the organization for long 30 years without any blemish or any antecedents of any misdeeds throughout his entire service tenure. The gist of the submission is that nothing new material having come on record and/or no new incriminating materials having been found, the penalty imposed by the Disciplinary Authority could not have been enhanced or replaced by the Revisioning Authority. It is submitted that powers under Rule 54 of the Rules of 2001 had been invoked illegally and without due application of mind.

6. Per contra, Mr. K.K. Parasar, learned counsel representing the respondents submits that the penalty imposed upon the petitioner by the Revisioning Authority and so affirmed in appeal as well as by the Director General, CISF do not call for interference. The said punishment is neither disproportionate to the gravity of the misconduct on the part of the petitioner nor the same was brought about by making any departure from the procedural safeguards to which the petitioner was entitled to under the law. Mr. Parasar makes reference to the affidavit-in-opposition filed by the respondents in support of the submissions so made. He also submits that having regard to the charge framed against the petitioner, the quantum of punishment has been appropriately decided by the higher authorities.

7. I have heard the learned counsel for the parties and have perused the materials on record. In so far as adherence to natural justice is concerned, it is not the case of the petitioner that he had been denied opportunity of being heard and/or to make suitable representation. In so far as the proceedings before the Revisioning Authority is concerned, the same was initiated by issuing a Show Cause Notice dated 10.12.2012 indicating the penalty proposed to be imposed upon the petitioner. He was also given reasonable opportunity of making a representation against the penalty proposed. Due representation was made and on consideration thereof, the impugned order by way of substituting the penalty was passed vide order dated 21.01.2013. It thus appears that there was no digression from the cardinal principles of audi alteram partem rule of natural justice while undertaking the proceedings in exercise of powers under Rule 54 of the Rules of 2001.

8. In so far as the submissions made by Mr. Mazumdar is concerned, the gang-plank of his submission is that there was utter absence of any new materials before the Revisioning Authority necessitating enhancement of the penalty.

It may be noticed that it is not the pleaded case of the petitioner that there had been any perversity in the findings of the Revisioning Authority and/or the order dated 21.01.2013 was based on no evidence. It is abundantly clear that the findings of the Revisioning Authority to the extent that the penalty imposed by the Disciplinary Authority was not commensurate to the gravity of offence charged and proved against the petitioner, is purely on the basis of the evidence on record. It is not for this Court to sit in appeal on the findings of facts by the Revisioning Authority. This Court finds no cogent and sufficient grounds to interfere with the findings of the Revisioning Authority. The said findings and decision of the Revisioning Authority was also tested before the higher authorities who, in the same vein, affirmed the order dated 21.01.2013.

9. Having regard to the scope of judicial review in matters pertaining to disciplinary proceedings before the administrative authorities and also having regard to the attending facts and circumstances of the present case, I find no ground to grant relief to the petitioner as has been prayed for.

10. The writ petition being devoid of merits stands accordingly dismissed, however, without any order as to cost.