



**Reportable**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Civil Appeal No.9224 of 2026  
(@ Special Leave Petition (C) No.10712 of 2025)**

**Prakash Kumar Dixit**

**....Appellant**

**Versus**

**Ajay Kumar Bhalla and Ors.**

**....Respondents**

**J U D G M E N T**

**K. VINOD CHANDRAN, J.**

Leave granted.

2. A promising career in the Central Reserve Police Force (CRPF), commenced as an Assistant Commandant in the year 1986, was sacrificed by the Departmental Authorities at the altar of callous indifference to the directions of the High Court and brazen pen-pushing. The appellant's active service was curtailed to a little more than a decade-and-a-half while two-and-a-half decades were spent in litigation. The appellant is now retired and assails the impugned order which interfered with the

order in a contempt case, directing the appellant to be promoted to the post of Inspector General (I.G.).

3. We heard Mr. Sanjoy Ghosh, learned Senior Counsel appearing for the appellant and Mrs. Archana Pathak Dave, learned Additional Solicitor General appearing for the respondent.

4. The appellant seeks implementation of the directions issued by the Division Bench of the Delhi High Court vide order dated 24.12.2019, produced as Annexure P-3; the ultimate conclusions arrived at and the directions issued therein, on the peculiar facts approved by this Court in Annexure P-4. According to the appellant, the implementation of the directions would require the respondent to reinstate him in service from 10.07.1995, the date of his initial termination to which date would be related the minor penalty imposed by the High Court, of reduction to one lower stage for a period not exceeding three years without cumulative effect or adversely affecting pension. The directions of the High Court with respect to pay fixation, seniority and all other consequential benefits including promotion has to necessarily follow, urged the learned Senior

Counsel for the appellant, reckoning which there was a direction by the learned Single Judge to promote the petitioner to the post of I.G, which post was occupied by his immediate junior.

5. The learned Additional Solicitor General on the other hand points out that the disciplinary inquiry was initiated validly against the appellant and it culminated in a finding of guilt which finding is approved by the High Court in Annexure P-3 order. The punishment imposed of reduction to a lower stage for three years without cumulative effect would stand against the consideration of the appellant for the three subsequent years from the date of second termination; substituted with minor penalty, when the rigor of the punishment restricts such consideration. The disciplinary proceedings are deemed to be pending during the years when the appellant was out of service. The delinquent having been eventually found guilty, even a sealed cover procedure, if at all carried out, would not inure to the benefit of the appellant. In any event, the appellant has been promoted to the post of Deputy Commandant and retired with due pensionary benefits.

6. The learned Senior Counsel for the appellant, however, would point out that even if the promotion to the post of Inspector General as has been conferred on his immediate junior is not possible, the punishment should be related back to the date of his termination and further promotion could be considered, at least notionally during the period he was out of service, enabling him to retire from a higher post with higher pension. It is also pertinently argued that the contempt case before the High Court is still alive.

7. The appellant's active service; as we noticed, was short but the litigation pursuant to his termination had a chequered career which we notice from Annexure P-3 judgment. The appellant was appointed as an Assistant Commandant in the year 1986 and in the year 1989 he was charge-sheeted for misconduct. The misconduct alleged was that while functioning as an Officer Commanding of a platoon deployed in a sensitive area, he handed over charge to an Inspector without approval from the competent authority and willfully remained absent without proper leave from 07.04.1988 for a period of 420 days, thereby violating the Central Civil Services (Classification, Control and

Appeal) Rules, 1965 (for short, '*the CCA Rules*'). The inquiry culminated in a finding of guilt and after consultation with the Union Public Service Commission (UPSC); which concurred with the imposition of a penalty of removal from service, the appellant was imposed with such penalty on 10.07.1995.

8. The ordeal of the appellant commenced then, when an appeal was rejected. A Writ Petition filed in the year 1996 was disposed of in the year 2000 directing reconsideration of the appeal filed by the appellant. The departmental appeal again came to be rejected in the year 2000 which was challenged unsuccessfully in yet another Writ Petition. In an appeal filed from the said order, a Division Bench remanded the matter for fresh consideration to the learned Single Judge. Despite a contention raised that the appellant had only a revisional remedy and not an appellate remedy, the learned Single Judge again directed consideration of the appeal under Rule 27 of the CCA Rules. In a further appeal filed, a Division Bench remanded the matter to the learned Single Judge directing consideration of the Writ Petition on merits.

**9.** In 2011, a learned Single Judge of the High Court finding that the Disciplinary Authority (D.A) had merely reproduced the charges and imposed the major penalty, set aside the order for non-application of mind and remanded the matter for fresh consideration to the D.A. The appellant filed an appeal from the above order only to the extent of not having considered reinstatement since the termination was set aside. In Writ Appeal No. 506 of 2011, a Division Bench directed the appellant to be reinstated in 2012, subject to suitable action taken in accordance with law. A Special Leave Petition filed by the Department was rejected by this Court in 2014 which led to reinstatement of the appellant in 2015 w.e.f. 10.07.1995. However, the order of reinstatement also specified that the appellant would be under deemed suspension w.e.f. 10.07.1995 thus, again effectively keeping the appellant away from serving as an officer of the CRPF.

**10.** The appellant's ordeal continued without any effective orders being passed by the D.A and pursuant to a proceeding initiated under the Right to Information Act, 2005 (the RTI Act), the appellant was informed that the D.A had decided to impose

a minor penalty and the file had been referred to the Department of Personnel and Training (DoPT). In a Writ Petition filed seeking communication of the order, on the directions of the Court, an order was produced by the respondents which again terminated the appellant. Further proceedings initiated under the RTI Act brought to light the flippant pen-pushing which commenced after the directions issued to the D.A. to reconsider the matter.

**11.** As we notice from Annexure P-3 order, the response issued under the RTI Act revealed that the Director General (D.G) on reconsideration had opined that the penalty of removal from service was harsh since the delinquent's case for leave was not properly handled. It was also found that the handing over of charge, which was Article 1 in the charge sheet, was on oral directions of the Commandant. It was also noticed with reference to Article 2 that the statement of the Commandant regarding the oral direction was not recorded in the inquiry and that the delinquent had submitted medical certificates in support of his overstay on leave. The recommendation of the D.G-CRPF when referred to the UPSC, it was opined that since no new facts have been brought on record, further consultation with the

Commission is not necessary. It was also advised that either the earlier recommendation be accepted or an independent view taken by the D.A. The UPSC too erred insofar as the mitigating circumstances were brought on record by the D.G.-CRPF.

**12.** While the D.A finalized a minor penalty of reduction by one stage for a period of three years without cumulative effect not adversely affecting pension, an Under Secretary in the Ministry of Home Affairs (MHA) prepared a note interpreting the advice of the UPSC as a '*disagreement*' with that of the D.A and referred it to the Department of Personnel and Training (DoPT). Another Under Secretary in the DoPT then requested the MHA to cancel the penalty imposed, "*in the light of the facts of the case and in the light of the UPSC's reasoning in the matter and convey a considered decision*". Subsequently, an opinion was sought from the Ministry of Law and Justice (MLJ) which concurred with the MHA leading to the DoPT placing the matter before the Prime Minister invoking Entry 39(2) of the Third Schedule to the Government of India (Transaction of Business) Rules, 1961. A decision was taken to '*resolve the disagreement with the UPSC and DA*' by agreeing with the advice of the UPSC for imposing

penalty of removal from service, resulting in the second order terminating the appellant from service.

**13.** In this context, we have to notice the specific stand taken by the respondent, Union of India with reference to OM No. 39023/02/2006-Estt. (B) dated 05.12.2006, in the earlier round before this Court. The portion emphasized, extracted in Annexure P4 order, brings forth two different aspects: one regarding disciplinary or other matters (other than appointment cases) and then, cases of appointment. With reference to the former when there is disagreement with the opinion of UPSC, the matter has to be placed before the Committee of Secretaries and only thereafter submitted to the Minister-in-Charge/Prime Minister. Insofar as appointments are concerned, the matter is to be directly placed before the Minister-in-Charge/Prime Minister. Admittedly, the present case is one of disciplinary inquiry and it ought to have been placed first before the Committee of Secretaries and then before the Prime Minister/Minister-in-Charge. This procedure, of consideration of 'disagreement' by a Committee of Secretaries was not only followed, but more importantly the advice of the UPSC does not

in fact bring forth any 'disagreement', since categorically the advice was to accept the earlier recommendation or to take an independent view, leaving the discretion to the D.A.

**14.** The Division Bench of the High Court in Annexure P-3 held that the sequence of events resulting in the termination order of the year 2018 brings forth not only the erroneous procedure adopted by the respondents but also the misplaced interpretation of the Under Secretary in the MHA. The entire procedure interfering with the clear finding of the D.A, who was the appointing authority, competent to impose the penalty was set aside and the minor penalty as directed by the D.A was held to be the proper penalty to be imposed against the appellant. It was also directed, as noticed above, that the date of reinstatement will relate back to the date of his initial termination and fixation of seniority and all consequential benefits, including promotion would be granted.

**15.** Annexure P-3, as we noticed, was affirmed by Annexure P-4 by this Court by order dated 07.12.2020. The appellant then filed a contempt case, pending which a review D.P.C was convened on 14.03.2023 to consider the case of the appellant for

promotion as Deputy Commandant which was also granted only on a notional basis that too w.e.f. 17.10.2021; when purportedly the three year period of the minor punishment imposed on him, reckoned from 16.10.2018, the date of the second termination, came to an end. It was also held that the appellant would not be eligible for consideration for further promotions since the essential eligibility, of five-year residency coupled with two years mandatory field service and completion of pre-promotional course, was not satisfied.

**16.** A learned Single Judge considered the contempt case and found the Inspector General of Police (Pers.) and DIG (Pers), who held the office on 22.03.2023 guilty of contempt but afforded an opportunity of six weeks to the contemnors, to purge themselves of the contempt alleged by promoting the appellant to the post of I.G. as on the date of his immediate Junior. An appeal was filed by the respondents in which a Division Bench found the appeal to be not maintainable since an appeal would lie only against an order imposing punishment for contempt. The appellant filed a Civil Appeal before this Court. By order dated 29.07.2024, this Court relied on the decision in ***Midnapore***

***Peoples' Coop. Bank Ltd. v. Chunilal Nanda***<sup>1</sup> and found that the Division Bench had failed to consider the two aspects of the case; first, the finding of guilt as against the contemnors and then the finding of the appellant being entitled to promotion to the rank of I.G. Though the first aspect was not amenable to an appeal under Section 19, the second aspect was amenable to appeal as per the cited decision, held this Court while remanding the matter back to the Division Bench, leading to the impugned order in the above appeal.

**17.** The impugned order found that the appellant cannot claim the post of I.G. or consideration to the said promotional post since he does not satisfy the essential eligibility condition, noticed above; with which we fully agree. Further, it was also found that his immediate junior, whose seniority had been settled was not a party in the proceedings, the directions prayed for adversely prejudicing the said Officer's seniority; which we need not comment upon. The Division Bench hence rejected the appeal.

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<sup>1</sup> (2006) 5 SCC 399

**18.** As of now, the appellant is retired from service, which actually spans over nearly a little short of four decades, unfortunately cut short thus rendering him unemployed for more than two decades and putting to jeopardy a promising career which otherwise the appellant could have had. We are hence concerned in adjusting the equities insofar as the appellant being denied fruitful employment and a promising career because of the callous indifference to the repeated directions of the High Court to reconsider the issue and also the apathetic pen-pushing which led to the opinion of the competent authority being digressed from based on a wrong understanding of the response of the UPSC; at the second instance, when UPSC clearly permitted the D.A to take an independent view.

**19.** It is trite that a judicial review under Article 226, of an order passed in a departmental inquiry holding the delinquent guilty and imposing punishment, is not concerned with the merits of the case and is more on procedure; unless the decision is without authority or vitiated by patent arbitrariness, extraneous considerations or is blatantly perverse. It is bearing in mind the trite principle that the constitutional courts restrain

themselves from interfering with the discretion cast on the D.A either on the finding with respect to the misconduct or the punishment imposed, which primarily is the prerogative of the employer. However, the authorities; be it the original authority or the appellate authority, should be cautious to consider the matter and not merely reiterate the earlier findings in mechanical compliance of the directions issued, when a Constitutional Courts directs reconsideration. Furthermore, when the D.A at the second instance clearly listed out the mitigating circumstances requiring imposition of only a minor penalty, which were digressed from based on a query initiated by an Under Secretary.

**20.** Be that as it may, we are of the opinion that a quietus has to be put to the matter. Annexure P-3 judgment clearly found the imposition of minor penalty as decided by the D.A. We cannot agree with the learned Additional Solicitor General that the rigor of punishment commenced from 16.10.2018; the date on which the second termination order was passed. When the High Court by Annexure P-3 directed imposition of a minor penalty as decided by the D.A, it necessarily has to relate back to the date

of appellant's initial termination i.e., 10.07.1995. The rigor of punishment thus, would be over on 10.07.1998 and since the appellant was out of service it does not visit any consequence on him since only notional benefits are given during the said period, the reduction by one stage being non-cumulative and leaves the pension unaffected.

**21.** Hence, when the review DPC was held on 14.03.2023 and the appellant was promoted as Deputy Commandant w.e.f. 17.10.2021; it cannot be made notional and it has to be with all attendant benefits, that too from the date on which he was eligible for promotion i.e.; the date on which others were promoted through the DPC, review of which was carried out. The appellant shall hence be promoted from the date on which the other Assistant Commandants were promoted as per the original DPC; of which review DPC was held on 14.03.2023. The appellant shall be paid the entire back wages from the date of entitlement to promotion as a Deputy Commandant, as per the review DPC held on 14.03.2023.

**22.** If such date of promotion is after 30.11.2012; when the Division Bench of the High Court directed his reinstatement in

Writ Appeal No.506 of 2011, he shall be entitled to the entire back wages from such date till his retirement as Deputy Commandant. If the promotion date falls prior to 30.11.2012, then necessarily the period prior to 30.11.2012 shall be notional and from 30.11.2012 the back wages shall be paid. The retirement benefits also shall be computed counting the increments as entitled in the higher pay scale and the arrears paid of the said benefits including the arrears of pension.

**23.** Considering the totality of the circumstances, we are also inclined to quash the contempt proceedings, though a case is made out, but on the condition of payment of Rs.10 lakhs to the appellant defraying the costs of the prolonged litigation spanning more than a quarter century. The cost shall be paid within two months, failing which it shall carry interest at the rate of 7%.

**24.** The arrears of pay shall be computed and a speaking order issued to the appellant, specifying the date of his promotion to the post of Deputy Commandant the pay fixation, increments granted and arrears disbursed within a period of six months from

today, failing which the same shall also carry interest at the rate of 7% from the date of expiry of the six months' period.

**25.** The appeal stands allowed, leaving the parties to suffer their costs.

**26.** Pending applications, if any, shall also stand disposed of.

..... J.  
**(J. B. PARDIWALA)**

..... J.  
**(K. VINOD CHANDRAN)**

**NEW DELHI;  
JULY 21, 2026.**