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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 03.11.2025**Judgment pronounced on: 03.12.2025**

+ W.P.(C) 8626/2022

CHHATTAR SINGH

.....Petitioner

Through: Mr. Manoj V George, Ms. Shilpa
Liza George, Ms. Brinda Bhattiprolu, Advs.

Versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Raj Kumar, CGSC with Mr.
Vinod Sawant, Law Officer, Insp Athurv, Mr.
Inderpal and Mr. Ramniwas Yadav, CRPF.**CORAM:****HON'BLE MR. JUSTICE C. HARI SHANKAR****HON'BLE MR. JUSTICE OM PRAKASH SHUKLA**

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JUDGMENT**03.12.2025****OM PRAKASH SHUKLA, J.**

1. The present writ petition has been filed under Article 226 of the Constitution of India *vide* which the petitioner seeks:

a) “Quash and set aside the impugned order dated 06.03.2020 with respect of the “Stoppage of next increment for a period of five years with cumulative effect” and in lieu of that restore the next increment of the Petitioner; and with respect of considering the period spent from 01.05.2019 (afternoon) till the date of reinstatement/reporting as PERIOD NOT SPENT ON DUTY and in lieu of that consider the aforesaid period as PERIOD SPENT ON DUTY; and

b) Issue a Writ of Mandamus or any other direction to the Respondents to provide the full pay and benefits that were denied to



the Petitioner during his period of suspension and compulsory retirement; and

c) Issue a Writ of Mandamus or any other direction to the Respondents to make available all the medical records of the Medical Board with respect to the Petitioner; and

d) Issue a Writ of Mandamus to the Respondent to implement the provisions of the Mental Healthcare Act, 2017 in the Force; and

e) Pass any other order or direction as this Hon'ble Court may deem fit and proper to do so in the facts and circumstances of the case in favour of the Petitioner and against the Respondents."

2. The facts leading to the present petition are that on 29.07.2018, the petitioner, while on attachment with the 122 Battalion Signal Platoon (5 Signal Battalion CRPF) was sent for the Annual Range Classification Firing at the Ferozpur-Jhirka Firing Range for communication duties. Respondent No.2 alleged absence of the petitioner from the designated duty area and carriage of radio equipment without permission. It was also alleged that the petitioner had spent time at the Outpost of 27 Battalion and that, after returning to the Butt Range, he was behaving with indiscipline and insubordination with the Range Officer. The petitioner was also accused of failing to carry two sets of 1/5 W radio sets to the firing range as a result of which he was punished by being made to stand under the sun before the Office for a period of almost four hours.

3. The petitioner, consequent on the above punishment, submitted a written complaint dated 30.07.2018 and in response to this complaint, the Commandant 122 Battalion issued a warning letter dated 30.07.2018 stating that the petitioner had refused to obey the orders of the Head of Office and had failed to follow CRPF Rules and Guidelines.



Following this incident, a behaviour report also came to be recorded. Thereafter, the petitioner was directed to report to the Commandant 05 Signal Battalion, CRPF, Chandigarh.

4. Thereafter, on 20.10.2018, while the petitioner was on duty at Chandigarh, an incident occurred between the petitioner and a superior officer, whereby it was alleged that the petitioner had disobeyed the orders of HC/GD Deedar Singh who lodged a written complaint, upon perusal of which the Insp/RO (Subedar Major) Nand Ram called the petitioner. A conversation ensued during which it is alleged that a scuffle took place where (Subedar Major) Nand Ram raised his hand to attack the petitioner and the petitioner allegedly pushed the Subedar Major in self-defence resulting in the Subedar Major falling down and injuring the side of his right eye, pursuant to which a suspension order dated 20.10.2018 was issued against the petitioner.

5. Thereafter, on 25.10.2018, a Memorandum of Charge was issued to the petitioner initiating disciplinary proceedings, which was received by the petitioner on 26.10.2018. Four charges were framed against the petitioner, the charges being:

- I. The first Article of Charge pertained to the incident dated 20.10.2018 alleging that the petitioner used criminal force against Insp/RO (Subedar Major) Nand Ram after disobeying the orders of HC/GD Deedar Singh, resulting in injury to the superior officer.



- II. The second Article of Charge alleged refusal to comply with an order issued by Hav./GD Didar Singh to replace the Guard Commander at Gate No. 2 and alleged arrogant conduct.
- III. The third Article of Charge referred to previous instances of misconduct, including “02 times Severe Censure” and “01 times Censure”.
- IV. The fourth Article of Charge concerned absence of petitioner from assigned communication duties on 29.07.2018 during deployment with 122 Battalion Signal Platoon.

6. Thereafter the petitioner was granted permission to leave the Headquarters for 10 days starting the afternoon of 27.10.2018, due to domestic problems and bank related loan work. The petitioner underwent medical evaluation at Mahatma Gandhi Medical College, Jaipur on 30.10.2018, where he was diagnosed with behavioural changes i.e., **Obsessive Compulsive Personality Disorder¹**.

7. Upon returning, the petitioner sought reimbursement for medical expenses, which was refused. Subsequently, a Medical Board was constituted by the respondent and the petitioner was referred to PGIMER, Chandigarh for further examination. The Medical Board confirmed that his “**Behavioural Response**” seemed improper and needed specialist psychiatric examination. PGIMER notified the CRPF unit on 21.12.2018 that the medical examination was scheduled for 11.01.2019. The examination at PGIMER medical records indicate his mental illness, a thorough psychiatric assessment revealed that the

¹ “OCPD” hereinafter





petitioner was suffering from a “**Moderate Depressive Episode**” and the petitioner was found to have below average intelligence on his intelligence quotient (IQ) assessment . The PGIMER medical board advised that the petitioner should not handle firearms for a minimum period of one year.

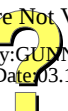
8. Thereafter the suspension against the petitioner was revoked *vide* order dated 18.01.2019 by the Commandant, 5 Signal Battalion with immediate effect.

9. The disciplinary proceedings continued and on 01.05.2019, the disciplinary authority issued the Final Order. By the said order, the petitioner was awarded the penalty of compulsory retirement with 30% reduction in pension and gratuity in accordance with Rule 40(1) of the Central Civil Service (Pension) Rules, 1972². The petitioner was removed from the Nafri of his battalion with effect from 01.05.2019. The order further directed confiscation of medals and awards under Section 12(1) of the Central Reserve Police Force Act, 1949³, and recovery or adjustment of any outstanding dues from the amounts payable to the petitioner.

10. The Disciplinary Authority also recorded directions with respect to the treatment of the petitioner’s suspension and absence periods. The suspension period from 20.10.2018 to 06.11.2018 and 13.11.2018 to 17.01.2019, totalling 84 days, was treated “as such”, and the period

² “CCS Pension Rules” hereinafter

³ “CRPF Act” hereinafter





from 07.11.2018 to 12.11.2018, i.e., six days, was regulated as “*dies-non*”, while being condoned for the purpose of pension calculation under Rule 27 and Rule 28 of the CCS Pension Rules.

11. Aggrieved thereby, the petitioner preferred an appeal and the same was dismissed *vide* order dated 12.09.2019 , thereby affirming the findings of the Departmental Enquiry and the penalty imposed by the Disciplinary Authority.

12. The petitioner thereafter invoked Rule 29 of the CRPF Rules, 1955 by filing a revision petition on 29.09.2019 before the Revisional Authority, namely the Inspector General (Communication & IT). The Revisional Authority passed a Speaking order dated 06.03.2020, whereby the order of compulsory retirement dated 01.05.2019 and the appellate order dated 12.09.2019 were set aside. In substitution, the petitioner was reinstated into service and awarded the penalty of “stoppage of next increment for five years with cumulative effect”. The petitioner was directed to report to 2 Signal Battalion, CRPF for further posting.

13. The Revisional Authority further directed that the period from 01.05.2019 (afternoon) till the date of reinstatement/reporting shall be treated as “period not spent on duty” in terms of Rule 54(5) of the Fundamental Rules⁴ for all purposes except for computation of pension. The petitioner thereafter contacted the authorities on 25.05.2020, regarding the revisional order who was then told to report at 2 Signal

⁴ “F.R” hereinafter



Battalion, CRPF, Hyderabad, Telangana. The petitioner reported at the unit on 27.05.2020.

14. Thereafter, the petitioner submitted two letters dated 29.05.2020, wherein he referred to matters relating to final payment of Group Insurance Scheme (GIS) and the Risk Fund Passbook (RFPB) and requested that terminal dues be recovered in instalments in view of financial difficulties.

15. Subsequent correspondence records that on 07.07.2020 the petitioner was informed that reinstatement would take effect upon refund of terminal dues. The petitioner deposited the requisite dues on 08.07.2020, and an office order of the same date reinstated the petitioner with effect from 08.07.2020 (forenoon), treating the intervening period from the date of compulsory retirement i.e. 01.05.2019 till one day before the date of reinstatement i.e., 07.07.2020 as “period not spent on duty”.

16. Following this, the petitioner on 16.07.2020 and 04.08.2020 submitted representations seeking that 27.05.2020 be considered the date of reinstatement, which was later on rejected *vide* communication dated 31.07.2020 and 21.08.2020 maintaining that the reinstatement date was correctly fixed from 08.07.2020.

17. The petitioner, thereafter, submitted a Mercy Petition dated 10.12.2020, requesting Respondent No.2 that the cumulative punishment be set aside and that the period from 01.05.2019 to



27.05.2020, which is the date of his reporting, be considered as “period spent on duty” which was rejected as being devoid of merits under Rule 30 of the Central Reserve Police Force Rules, 1955⁵ on 25.08.2021 whereby the Director General, CRPF, New Delhi, confirmed the punishment as justified and that the non-duty period was held to be correct as under F.R.54.

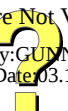
18. It is in these circumstances that the petitioner has filed the present writ petition challenging the Revision Order dated 06.03.2020 imposing cumulative punishment and non -duty status, and the rejection of the Mercy Petition dated 25.08.2021 confirming the same.

Submissions on behalf of the petitioner

19. Mr. Manoj V George, learned Counsel for the petitioner, submits that although allegations of indiscipline and insubordination have been levelled against the petitioner, the present case warrants consideration beyond the disciplinary prism, as the petitioner was suffering from “**mental illness**” at the relevant time, duly certified by competent medical authorities, thereby rendering the disciplinary action disproportionate, insensitive, and legally unsustainable.

20. It was submitted that the petitioner was diagnosed with **OCPD**, first at a civil hospital Jaipur and later confirmed by PGIMER, Chandigarh. The learned Counsel contends that the said condition

⁵ “CRPF Rules” hereinafter





squarely falls within the definition of “mental illness” under Section 2(1)(s)⁶ of the Mental Healthcare Act, 2017.

21. The learned Counsel urges that the petitioner was not a perpetrator of misconduct but rather a victim of mental health vulnerabilities and is therefore entitled to the protection and reasonable accommodation under the Mental Healthcare Act, 2017 and the Rights of Persons with Disabilities Act, 2016⁷.

22. It was submitted that despite medical advice that the petitioner should not be entrusted with duties involving arms and ammunition, the respondents proceeded with disciplinary action culminating in compulsory retirement, in contravention of Section 20 of the RPwD Act⁸, Section 25 of the Mental Healthcare Act, 2017, and Article 21 of the Constitution of India.

23. Reliance was placed on *Ravinder Kumar Dhariwal v. Union of India*⁹, to contend that disciplining a mentally ill employee constitutes

⁶ 2(s) “mental illness” means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence;

⁷ “RPwD Act” hereinafter

⁸ 20. (1) No Government establishment shall discriminate against any person with disability in any matter relating to employment: Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this section. (2) Every Government establishment shall provide reasonable accommodation and appropriate barrier free and conducive environment to employees with disability. (3) No promotion shall be denied to a person merely on the ground of disability. (4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service: Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits: Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier. (5) The appropriate Government may frame policies for posting and transfer of employees with disabilities

⁹ 2021 SCC OnLine SC 1293





indirect discrimination under the RPwD Act and that the employer is duty-bound to provide reasonable accommodation. It is further submitted that Section 20(4) of the RPwD Act prohibits dispensing with the services of an employee acquiring disability during service and mandates adjustment against a suitable or supernumerary post.

24. Further, as regards the first incident dated 29.07.2018 at the Ferozepur-Jhirka Firing Range, the learned Counsel submitted that the petitioner was never absent from duty as alleged, as the firing range fell within the jurisdiction of the adjoining outpost, and no written briefing or standing order mandated the carriage of additional radio sets. It was contended that the petitioner was subjected to humiliation by being made to stand in the sun for over four hours, and when he lodged a complaint before the Commandant, he was coerced into withdrawing the same and subsequently victimised.

25. As regards the incident dated 20.10.2018 at 5 Signal Battalion, Chandigarh, it was urged that the petitioner did not commit any aggressive act, rather, he was subjected to demeaning and abusive language by Subedar Major Nand Ram, and when the officer attempted to physically assault him, the petitioner only pushed him in self-defence, causing inadvertent injury. It was submitted that the incident was erroneously classified as a “More Heinous Offence” and treated as major misconduct.

26. The learned Counsel next submitted that the Revisional Order dated 06.03.2020, while setting aside the penalty of compulsory



retirement, substituted it with the punishment of “stoppage of next increment for five years with cumulative effect”, which according to him was impermissible in law and ultra vires the statutory rules governing disciplinary control over CRPF personnel.

27. It was urged that Rule 11 of the CCS (CCA) Rules, 1965, which applies to the CRPF, contemplates withholding of increments of pay as a prescribed penalty but does not provide for withholding with cumulative effect unless explicitly authorised. It was argued that a cumulative bar, which permanently depresses future increments and pension, constitutes a major penalty of a more severe character than those enumerated under the Rules.

28. Further reliance was placed on Rule 27(a) and Rule 72 of the CRPF Rules which similarly contemplates only stoppage of increments and does not provide for cumulative effect or for withholding beyond a prescribed period.

29. It was further contended that the petitioner’s repeated requests for copies of his medical records and documents pertaining to treatment were arbitrarily denied, contrary to Section 25 of the Mental Healthcare Act, 2017, thereby infringing his statutory right to access his own medical records. Such denial, as urged, obstructed the petitioner’s defence, violated his dignity and privacy, and infringed his fundamental right under Article 21 of the Constitution of India, thereby rendering the disciplinary proceedings constitutionally infirm.



30. The learned Counsel further submitted that the denial of relevant documents also violated the principles set out in MHA OM No. 30/5/61-AVD dated 25.08.1961, which mandates that relevancy must be viewed from the standpoint of the defence, and any document potentially aiding defence must be supplied. Thus, according to the learned Counsel, the omission to do so vitiated the enquiry.

31. Reliance was placed on *Punjab State Electricity Board v. Raj Kumar Goel*¹⁰, *Kulwant Singh Gill v. State of Punjab*¹¹, and *Rahul Kumar v. Union of India*¹², to contend that stoppage of increments with cumulative effect constitutes a major penalty and cannot be imposed unless specifically authorised by the Rules.

32. The learned Counsel further submitted that the Revisional Authority effectively imposed two penalties for the same cause of action, namely, (i) stoppage of increments with cumulative effect, and (ii) treating the entire period from 01.05.2019 (afternoon) till reinstatement as “period not spent on duty”, thereby violating the doctrine against civil double jeopardy. Reliance was placed on *Lt. Governor, Delhi v. H.C. Narinder Singh*¹³ in this regard.

33. With respect to the period from 07.11.2018 to 12.11.2018 being treated as *dies-non*, reliance was placed on *Krushnakant B. Parmar v. Union of India*¹⁴ to contend that absence must be wilful to constitute

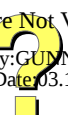
¹⁰ (2014)15 SCC

¹¹ 1991 Supp (1) SCC 504

¹² 2018 SCC OnLine Gau 1620

¹³ (2004) 13 SCC 342

¹⁴ 2012 SCC OnLine SC 162





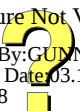
misconduct. In the present case, the inability to join duty was due to ill-health, and therefore, the period could not have been treated as *dies-non*.

34. It was further contended that despite the Revisional Order, the petitioner was neither promptly informed thereof nor reinstated from the date he reported, i.e., 27.05.2020. Instead, reinstatement was made effective from 08.07.2020, upon refund of terminal dues. It was submitted that such a condition was extraneous, arbitrary, and unsupported by any rule or procedure, warranting grant of pay and allowances from 27.05.2020.

35. The learned Counsel also highlighted the inordinate delay in disposal of the appeal, revision, and mercy petition, in breach of the timelines prescribed under Standing Order No. 20/2001, thereby causing serious prejudice.

36. Lastly, reliance was placed on ***Ravinder Kumar Dhariwal (supra)***, to submit that disciplining an employee suffering from mental disability amounts to indirect discrimination and violates statutory protection under the RPwD Act. It was argued that Section 20(4) of the RPwD Act prohibits dispensing with an employee who acquires disability during service and instead mandates accommodation on a suitable or supernumerary post.

37. Ultimately, the learned Counsel prayed for quashing of the impugned punishment dated 06.03.2020, declaration of reinstatement





with effect from 27.05.2020 and grant of consequential benefits including full pay and allowances under F.R 54(2), and restoration of all service benefits.

Submissions on behalf of the respondents

38. Per contra, Mr. Raj Kumar, learned CGSC for the respondents submits that the present writ petition was not maintainable before this Court for lack of territorial jurisdiction. It was submitted that the petitioner is a permanent resident of Bharatpur, Rajasthan and is presently posted in Pulwama, Jammu & Kashmir, and therefore, no part of the cause of action has arisen within the territorial jurisdiction of this Court. Reliance was placed on *Rajasthan High Court v. Jayaram*,¹⁵ wherein the Supreme Court held that jurisdiction lies only where the cause of action arises.

39. It was further submitted that the writ petition was liable to be dismissed for non-joinder of necessary parties, inasmuch as the Commandant, 5 Signal Battalion who was the Disciplinary Authority and passed the original penalty order, has not been impleaded. Reference in this regard was made to *State of Assam v. Union of India*¹⁶, to contend that non-impleadment of a necessary party is fatal to the proceedings.

40. The learned Counsel submitted that the petitioner was afforded full opportunity to defend himself, including supply of relevant

¹⁵ AIR 2004 SC 3319

¹⁶ (2010) 10 SCC 408





documents, opportunity to cross-examine witnesses, and opportunity to submit written representation. It is urged that the principles of natural justice were fully adhered to at each stage of the proceedings and that the charges against the petitioner stood duly proved in a properly constituted Departmental Enquiry.

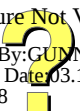
41. Learned Counsel relies on *Union of India v. P. Gunasekaran*¹⁷, wherein the Supreme Court held that in judicial review, the Court cannot re-appreciate evidence or interfere with findings of fact unless the same are perverse, mala fide, or violative of natural justice. It is submitted that the petitioner's attempt to challenge findings of fact is impermissible under Article 226 of the Constitution.

42. The learned Counsel further submitted that the penalty imposed was fair, reasonable, and proportionate to the misconduct proved. It was pointed out that although the Disciplinary Authority initially imposed the penalty of compulsory retirement along with reduction in pensionary benefits, the Revisional Authority, on sympathetic consideration of the petitioner's 16 years of service and family circumstances, reduced the punishment to stoppage of next increment for five years with cumulative effect.

43. Learned Counsel relied on *B.C. Chaturvedi v. Union of India*¹⁸, for the proposition that interference with quantum of punishment is permissible only when the punishment is shockingly disproportionate.

¹⁷ (2015) 2 SCC 610

¹⁸ (1995) 6 SCC 749





It was submitted that in the present case, the revised penalty reflects leniency rather than harshness, and therefore warrants no interference.

44. Learned Counsel contends that the petitioner's reliance on mental illness as a basis to claim immunity from disciplinary action is misconceived. It was submitted that the petitioner was examined by PGIMER, Chandigarh, and was found to be suffering from a **"Moderate Depressive Episode"**, which does not constitute a permanent disability, so as to attract the protections of disability statutes.

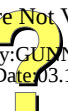
45. Reliance was placed on *Kunal Singh v. Union of India*¹⁹, wherein the Supreme Court held that protection under disability law applies only in cases of permanent disability and not in cases of temporary medical conditions. It was therefore submitted that the petitioner cannot derive benefit or immunity from disciplinary proceedings on the basis of the condition diagnosed.

46. It was further emphasized by the learned Counsel that the scope of judicial review in service and disciplinary matters is extremely limited. Courts cannot act as appellate forums to substitute their views on evidence or re-assess factual findings. Reliance, in this regard was placed on *Union of India v. H.C. Goel*,²⁰ and *High Court of Judicature at Bombay v. Shashikant Patil*²¹ wherein the Supreme Court reiterated

¹⁹ (2003) 4 SCC 524

²⁰ AIR 1964 SC 364

²¹ (2000) 1 SCC 416





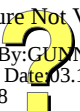
that only perversity, mala fides, or violation of natural justice can warrant interference.

47. The learned CGSC for respondents, therefore, submitted that the impugned order was legal, valid, and passed after due consideration and as such the writ petition deserved to be dismissed as being devoid of merit.

ANALYSIS

48. We have heard learned Counsel for the parties and perused the record placed before us. The case before this Court is not merely one concerning disciplinary control in CRPF, it also presents a more delicate matter relating to an employee suffering from mental illness. While the discipline of the force is undoubtedly of paramount significance, the law equally mandates accommodation, and fairness where mental health vulnerabilities are established.

49. The preliminary objection raised by the respondents with regard to territorial jurisdiction is noted at the outset. Having considered the nature of relief sought, the impugned order emanating from authorities of the Union of India exercising jurisdiction across the territory of India, and the continuing civil consequences suffered by the petitioner, we find no merit in such objection. The respondents' plea that the petitioner resides in Rajasthan and is posted in Jammu & Kashmir cannot, by itself, oust the writ jurisdiction of this Court when the challenge concerns the legality of a centralised disciplinary action having enduring impact on the service rights of the petitioner. Further, since





the headquarters of the CRPF is situated in Delhi, this Court possesses jurisdiction under Article 226(1) of the Constitution of India, as reaffirmed by the Supreme Court in *Abrar Ali v. CISF*²², and followed by a Division Bench of this Court authored by one of us (C. Hari Shankar, J.) in *Sunil Kumar v. Director General, SSB & Ors.*²³ wherein it was held that when the headquarters of a central paramilitary force is located within the territorial limits of this Court, jurisdiction is clearly attracted notwithstanding that the incident or posting may have occurred elsewhere.

50. This Court is mindful of the well-settled contours of judicial review in disciplinary proceedings. The Supreme Court in *P.Gunasekaran, (supra)* cautioned that the High Court, in exercise of writ jurisdiction, does not act as an appellate forum to re-assess evidence or substitute its own conclusions for that of the disciplinary authorities. Interference is warranted only if the process was vitiated by procedural irregularity, perversity of findings, mala fides, or if the punishment imposed is such as to shock the conscience of the Court. This framework ensures that while discipline is preserved, injustice is redressed. Therefore, while this Court refrains from re-evaluating the factual matrix underlying the Articles of Charge, it remains its solemn duty to examine whether the disciplinary proceedings and resultant punishment withstand scrutiny in light of the statutory rights governing persons with mental illness under the Mental Healthcare Act, 2017 and the RPwD Act.

²² Civil Appeal No. 6020/2012

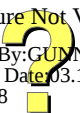
²³ W.P.(C) 3983/2022





51. In the present case, certain foundational facts are undisputed. The petitioner was diagnosed with **OCPD** while in service. His mental health condition was initially assessed at a civil hospital and later reaffirmed at PGIMER, Chandigarh. The Medical Board opined that the petitioner ought not be tasked with duties involving firearms. In view of such undisputed medical documentation, the petitioner clearly falls within the definition of “**mental illness**” under Section 2(1)(s) of the Mental Healthcare Act, 2017, which includes substantial disorders of thinking, mood, perception, orientation or memory, impairing judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life.

52. Mental illness cannot be treated as a stigma, a character flaw, or a disciplinary infraction. The enactment of the Mental Healthcare Act, 2017 and the RPwD Act reflects the legislative intent to ensure that persons with mental illness are not marginalised, discriminated against or subjected to institutional responses that aggravate their condition. Section 29 of the Mental Healthcare Act, 2017 imposes a statutory obligation upon authorities to ensure that persons with mental illness are not subjected to inhuman or degrading treatment. Section 25 of the Mental Healthcare Act, 2017, thereof, confers a legal right upon every person with mental illness to access his medical records. The denial of such medical records to the petitioner during the disciplinary process, despite specific request, assumes significance, not merely as a procedural lapse, but as a violation of a statutory right intrinsic to





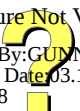
informed defence, dignity and privacy under Article 21 of the Constitution of India.

53. Importantly, the approach to persons with mental illness in employment has undergone a paradigm shift. The RPwD Act mandates a framework of substantive equality and non-discrimination. Section 20 of the RPwD Act prohibits discrimination in employment on the ground of disability, and sub-section (4) explicitly provides that an employee who acquires a disability during service shall not be dispensed with; instead, the employer must shift such employee to a suitable post with the same pay scale or create a supernumerary post. This statutory protection is directly applicable in cases such as the present petitioner.

54. The Supreme Court, in *Ravinder Kumar Dhariwal (supra)* has emphatically held that the failure to provide reasonable accommodation to a person with disability, including mental disability, itself constitutes discrimination. The Court observed that the failure to provide reasonable accommodation to an employee with a disability itself amounts to discrimination, as the lack of accommodation puts such persons at a disadvantage when compared with others. This principle has direct application to the present case, where the disciplinary authorities proceeded as though the petitioner were an ordinary delinquent employee, ignoring the documented mental illness that impaired his functional capacity. The relevant para is extracted below :

“137. Section 20(4) of the RPwD provides thus:

“(4) No Government establishment shall dispense with or reduce in rank, an employee who acquires a disability during his or her service:





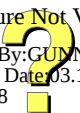
Provided that, if an employee after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.”

138. Sub-Section (4) of Section 20 advances the guarantee of reasonable accommodation to persons with mental disabilities. The Government establishment has a positive obligation to shift an employee who acquired a disability during service to a suitable post with the same pay scale and service benefits. The provision further states that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post becomes available or when they attain the age of superannuation, whichever is earlier”

55. The Supreme Court further also clarified that the exemption notification dated 18.08.2021 issued under Section 20 of the RPwD Act operates prospectively and has no bearing on disciplinary proceedings which had already been initiated or concluded prior to its issuance. The Court observed that during the period between 27.12.2016 and 18.08.2021, no exemption notification was in force for the Central Armed Police Forces, and therefore employees acquiring disability during this period were fully protected under Section 20 of the RPwD Act.

56. In the present case since the entire disciplinary process against the petitioner including initiation of proceedings in 2018, imposition of compulsory retirement in 2019, and substituted punishment in 2020 occurred wholly within this non-exemption period, the rights and safeguards contained in Section 20 of the RPwD Act must govern the present case. This clarification is legally essential because it prevents





retrospective extension of the 2021 exemption to a period during which the statutory protections under Section 20 were in full operation. Accordingly, the 2021 Notification has no application to the factual matrix of the present appeal.

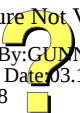
57. The disciplinary proceedings against the petitioner here were conducted as if the provisions of RPwD Act are not applicable to him, without even acknowledging or accommodating his mental illness. No steps were taken to modify duties, provide medical support, or tailor the enquiry to the petitioner's cognitive and functional limitations. Applying the above-mentioned principle, the failure to provide reasonable accommodation in itself constitutes discrimination, thereby tainting the disciplinary proceedings.

58. The Supreme Court in ***Ravinder Kumar Dhariwal (supra)*** held that even where disability is not the sole cause of misconduct, if it has a nexus with the alleged conduct, it must be accounted for. The relevant extracts:

“126. The question that comes up before this Court is whether it is sufficient for the appellant to show that his mental health disorder was one of the factors that led to the initiation of disciplinary proceedings against him for misconduct or is he required to prove that his disability was the sole cause of disciplinary proceedings being instituted against him.

127. Section 3 of the RPwD Act provides a general guarantee against non discrimination and equality to persons with a disability. Section 20 specifically provides that no government establishment shall discriminate against any person who has acquired a disability in any matter relating to employment.

Discrimination has been given an expansive definition under Section 2(h) of the RPwD Act, which states thus:



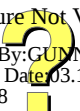


“2. (h) “discrimination” in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation;”

128. Section 2(h) prohibits discrimination on the basis of disability. It is pertinent to note that the provision does not use the phrase “only” on the basis of disability. This Court in its decisions has observed that while a causal connection may need to be established between the ground for discrimination and the discriminatory act, it is not required to be shown that the discrimination occurred solely on the basis of the forbidden ground. As long as it can be shown that the forbidden ground played a role in the discriminatory action, the action will violate the guarantee against non-discrimination.”

59. The petitioner’s alleged misconduct are directly consistent with symptoms of **OCPD** and depression. The disciplinary authority neither conducted a psychiatric assessment of fitness to face enquiry nor considered the petitioner’s mental illness as a mitigating or explanatory factor. The initiation of disciplinary proceedings without considering the disability of the petitioner, and the conduct of the inquiry without provision of reasonable accommodation, constitute “indirect discrimination.” The disciplinary process proceeded in a mechanical manner, ignoring the petitioner’s mental condition, medical recommendations and statutory protections.

60. The obligation to provide reasonable accommodation to a person with mental illness is a mandatory requirement under the RPwD Act, and forms an essential component of quality. Where the disability has a nexus with the alleged act of misconduct, the employer must consider the fact of disability while initiating disciplinary proceedings. The





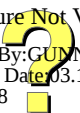
inquiry would be vitiated otherwise as confirmed by the Supreme Court in *Ravinder Kumar Dhariwal(supra)*.

61. Moreover, access to one's mental health records is a statutory right under Section 25 of the Mental Healthcare Act, 2017. Denial of access to such crucial records vitiate fairness.

62. In view of the above binding dicta, the disciplinary proceedings against the petitioner, undertaken without reasonable accommodation; without consideration of the nexus between the disability and the alleged misconduct; without regarding the statutory rights to access medical records, are vitiated as discriminatory, unfair, and contrary to the RPwD Act, the Mental Healthcare Act, and Article 21 of the Constitution.

63. Given the fact that the disciplinary process itself is unsustainable in the facts and circumstances of the present case, despite the same this Court would also conclude by examining the legality of the substituted penalty of "stoppage of next increment for five years with cumulative effect," independently of the disability framework.

64. For a moment, even assuming if the disciplinary process were valid, the penalty imposed by the Revisional Authority i.e. "stoppage of next increment for five years with cumulative effect" invites scrutiny on the touchstone of statutory limits governing penalties. The Central Civil Services (Classification, Control and Appeal) Rules, 1965, as applicable to the CRPF, enumerate "withholding of increments of pay"





as a penalty but do not contemplate withholding with cumulative effect, nor for a period extending to five years. Similarly, Rules 27 and 72 of the CRPF Rules, 1955 do not authorise imposition of stoppage of increment with cumulative effect beyond one year. A penalty not expressly authorised by the rules is impermissible in law.

65. The Supreme Court in ***Punjab State Electricity Board (supra)***, authoritatively held that withholding of increments with cumulative effect constitutes a major penalty. The penalty imposed on the petitioner permanently depresses his pay and pension, thus constituting a major penalty thereby rendering the punishment as *ultra vires*.

66. Consequently, the disciplinary proceedings having been held vitiated, the petitioner shall be entitled to full restoration of service benefits as if the penalty had not intervened; the reinstatement shall relate back to 27.05.2020, as the condition imposed by the respondents requiring refund of terminal dues before reinstatement is without legal sanction, and the intervening period from 01.05.2019 (afternoon) till 26.05.2020 shall be treated as “duty for all purposes” under F.R 54, entitling the petitioner to full pay, allowances, increments, continuity of service and pension, and the period wrongly treated as *dies non* shall also stand regularised, with all consequential arrears and benefits to be computed.

67. In view of the above discussion and for the reasons stated thereunder, the instant writ petition is allowed.



68. The disciplinary proceedings against the petitioner is set aside. The petitioner is also entitled to the protection of Section 20(4) of the RPwD Act in the event he is found unsuitable for his current employment duty. While re-assigning the petitioner to an alternate post, should it become necessary, his pay, emoluments and conditions of service must be protected. The authorities will be at liberty to ensure that the assignment to an alternate post does not involve the use of or control over fire-arms or equipment which may pose a danger to the petitioner or others in or around the work place as very well held by the Supreme Court in its concluding paragraphs in *Ravinder Kumar Dhariwal(supra)*.

69. All consequential benefits, including arrears, shall be computed and disbursed to the petitioner after adjusting sums already paid, within eight weeks from the date of pronouncement of this judgment. A certified copy of this order is to be made available to the competent authority.

70. Pending applications(s), if any, stands disposed of. In the facts of the present case, there shall be no order(s) as to cost.

OM PRAKASH SHUKLA, J.

C. HARI SHANKAR, J.

DECEMBER 03, 2025/pa/rjd