

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE VIVEK KUMAR SINGH

ON THE 25th OF AUGUST, 2026

WRIT PETITION No.2511 of 2012

N. P. Dwivedi

Versus

Union of India & Others

Appearance:

Shri Utkarsh Agrawal and Shri Pradeep Kumar Dwivedi - Advocate for the petitioner.

Shri Shrikrishna Sharma- Advocate for the respondents.

Reserved on : 06.08.2026

Delivered on : 25.08.2026

ORDER

The petitioner has filed the instant petition challenging the order of punishment dated 21.01.2011 (Annexure P/1), whereby, a penalty of reduction in pay by two stages for a period of two years with cumulative effect has been imposed upon him thereby, postponing future increments. The petitioner is further challenging orders dated 14.04.2011 (Annexure P/2) and order dated

16.09.2011 (Annexure P/3); whereby, the appeal and revision preferred by the petitioner, respectively has also been dismissed.

2. The factual matrix of the present case is that the petitioner was appointed as a Constable in the CISF on 05.04.1991 and was posted at the BHEL Unit, Bhopal. On the intervening night of 15/16.11.2010, the petitioner was on night shift from 18:00 hrs to 06:00 hrs. At approximately 17:15 hrs, while reporting for duty, he drew an INSAS 5.56 mm Rifle bearing Butt No. 81, Registration No. 18074643 and 100 live rounds from the Unit Kote. While he was inspecting the weapon in the Kote verandah, one round was accidentally fired, hitting the ceiling of the verandah. It is an undisputed fact that the bullet did not cause any loss of life, bodily injury or damage to property. This incident was recorded in the General Diary as Entry No. 562 at 18:40 hrs.

3. Following the incident, the petitioner was immediately placed under suspension vide order dated 15.11.2010. Interestingly, the department treated the matter as an accident initially, as evidenced by an order dated 30.11.2010 (Annexure P/12), which directed the recovery of Rs. 18/- from the petitioner as the penal cost of the fired cartridge due to accidental firing. The petitioner promptly deposited the amount into the Government Treasury via a Challan dated 10.12.2010 (Annexure P/13). A formal Memorandum of Charge was subsequently issued to the petitioner on 20.11.2010, amended on 25.11.2010 (Annexures P/5), under Rule 36 of the *Central Industrial Security Force*

Rules, 2001 (CISF Rules, 2001). The charges levelled against the petitioner were that of gross negligence, careless handling of arms and violation of lawful orders. The petitioner submitted a detailed reply (Annexure P/6), asserting that the firing was a bonafide mistake. Subsequently, respondent No. 5 was appointed as the Enquiry Officer. The petitioner requested certain documents vide Representation dated 04.12.2010 (Annexure P/8), which the respondents rejected as irrelevant vide Communication dated 13.12.2010 (Annexure P/9).

4. The Enquiry Officer conducted the proceedings wherein ten prosecution witnesses (PW-1 to PW-10) were examined. As per the Enquiry Report (Annexure P/14), the co-duty personnel corroborated the sequence of events and affirmed that no harm occurred. Nevertheless, the Enquiry Officer concluded that the petitioner deliberately inserted a loaded magazine and operated the trigger, finding the charge of gross negligence fully proved.

5. The Disciplinary Authority passed the impugned order dated 21.01.2011 (Annexure P/1), imposing a penalty of reduction in pay by two stages from Rs. 8770/- to Rs. 8120/- in the time scale of pay for two years with the specific direction that he will not earn increments during this period and the reduction will have the effect of postponing future increments. The petitioner's statutory appeal was dismissed on 14.04.2011 and his revision petition was dismissed on 16.09.2011.

6. Shri Utkarsh Agrawal, Ld. counsel for the petitioner, vehemently argued that the punishment imposed is shockingly disproportionate and the enquiry proceedings violated the principles of natural justice. It is submitted that the firing was completely accidental. The departmental witnesses substantiated that there was no malicious intent nor was there any injury or property damage. The petitioner placed on record a CISF Circular dated 16.12.2009 (Annexure P/10) which strictly prohibits continuous 12 hour duty deployments. In light of this Circular, it is submitted by Ld. counsel that the petitioner was forced to work 12 to 14 hour shifts, leading to extreme mental and physical exhaustion. The petitioner produced medical certificates (Annexure P/11) proving that his father was undergoing treatment for advanced cancer at Jawaharlal Nehru Cancer Hospital and his daughter suffers from a 40% permanent physical disability. It is submitted that combined with the financial stress of a housing loan deadline, the petitioner was under severe emotional distress. The Ld. counsel further submitted that the authorities failed to adopt a pragmatic or humanitarian approach to these facts. Furthermore, it is brought to notice that the department had already recovered the sum of Rs. 18/- for the cartridge, treating it as an accident, hence, the impugned penalty permanently impacts the petitioner's future increments, Assured Career Progression and promotions as for a minor, unintended human error, a major penalty has been imposed.

7. *Per contra*, Ld. counsel for the respondents supported the impugned orders and prayed for the dismissal of the writ petition. It is submitted by Ld. Counsel that the CISF is a paramilitary force where weapons are issued for the protection of life and property. Firing a weapon without reason by an experienced personnel with 20 years of service is a grave offense that reflects highly casual conduct and gross negligence. It is further argued that the petitioner's service record is only average and previously, the petitioner has been awarded two minor punishments, one for sleeping on duty in 1996 and another for unauthorized absence in 1999/2000.

8. It is submitted that the departmental enquiry was conducted strictly per the CISF Rules. The petitioner was given ample opportunity to cross-examine witnesses and defend himself. Under Section 15 of the CISF Act, 1968, members of the force are always on duty. The 12 hour shifts were an operational necessity because 128 personnel of the unit had been deployed for election duties in Bihar and Jharkhand, causing an acute manpower shortage. The respondents argue that if the petitioner was under such severe mental stress, he should have informed his superiors before drawing a weapon. Furthermore, the fact that he was executing a Rs. 7 lakh property transaction indicates he was mentally sound. Lastly, it is submitted by him that the Disciplinary Authority could have dismissed or removed the petitioner from service but opted to take a lenient view by imposing a lesser penalty.

9. Heard the respective counsel and perused the record.

10. The primary issue before this Court is whether the imposition of a major penalty is legally sustainable and proportionate for an accidental firing that caused no harm, especially when viewed against the backdrop of compelling mitigating circumstances.

11. While this Court is mindful that in matters of discipline within armed/paramilitary forces, the scope of judicial review under Article 226 is circumscribed, it is not entirely excluded. The parameters of judicial interference in departmental proceedings were extensively discussed by a coordinate bench of this Court in **Ravi Saxena v. State of M.P., W.P. No. 4767 of 2018**, decided on 24.03.2023. Relying upon a catena of Hon'ble Supreme Court judgments including *Anil Kumar v. Presiding Officer*, (1985) 3 SCC 379; *B.C. Chaturvedi v. Union of India*, (1995) 6 SCC 749 and *Degala Suryanarayana* (1999) 5 SCC 762, this Court held that while courts do not re-appreciate evidence like an appellate body, they are duty-bound to interfere if, (i) the conclusion of the disciplinary authority is based on no evidence; (ii) if the Enquiry Officer failed to apply their mind to the defense, or (iii) if the findings are such that no reasonable person acting objectively could have arrived at them. An enquiry report cannot merely be the *ipse dixit* of the Enquiry Officer; it must be a reasoned order. Furthermore, departmental

proceedings cannot be treated as a casual exercise conducted with a closed mind.

12. Applying the principles elucidated in *Ravi Saxena (supra)* to the factual matrix of the present case, several glaring infirmities emerge in the decision-making process of the respondents. The Enquiry Officer concluded that the petitioner deliberately inserted a loaded magazine and pulled the trigger. However, as admitted by the prosecution witnesses (PW-1 to PW-10) during the enquiry, the incident was an accidental fire and a bona fide mistake. There is absolutely no evidence to support the subjective conclusion of deliberate defiance or willful sabotage. To elevate an unintended accident to the level of deliberate gross negligence is legally perverse, akin to flawed findings and is liable to be struck down.

13. The department initially recognized the nature of the event by issuing a recovery order for Rs. 18/- (Annexure P/12) which explicitly used the phrase accidental firing. Having monetarily penalized the petitioner for the lost cartridge, utilizing the same incident to impose a major penalty with permanent, cumulative financial repercussions demonstrates a vindictive and disproportionate approach.

14. A defining feature of this case is the evidence adduced during the departmental enquiry. The Enquiry Officer examined ten prosecution witnesses (PW-1 to PW-10). PW-1 (Inspector Ajit Singh) confirmed that 99

live rounds and 1 empty cartridge were accounted for after the incident. PW-2 (Sub-Inspector Chowba Ram), the Shift In-charge, testified that the gunshot occurred while the petitioner was routinely checking his issued weapon. PW-5 to PW-10 (Co-duty personnel) unanimously provided eyewitness accounts corroborating that the firing occurred during inspection, hit the ceiling and absolutely no loss of life, bodily injury or property damage transpired. Despite the unanimous testimony of the prosecution's own witnesses that the firing was an accident, the Enquiry Officer rejected all mitigating defenses. The Enquiry Officer bizarrely deduced that because the petitioner executed a real estate transaction, he was mentally sound and therefore, the handling of the weapon was a deliberate breach of safety rules amounting to gross negligence. To elevate an unintended accident corroborated as such by every eyewitness to the level of deliberate gross negligence is a legally perverse finding that flies in the face of the evidence on record.

15. To appreciate the proportionality of the punishment, it is imperative to examine the statutory rules governing penalties. Rule 34 of the CISF Rules, 2001 categorizes penalties into Major and Minor. Rule 34 is reproduced verbatim below:

“34. Nature of penalties. - The following penalties may, for good and sufficient reasons and as hereinafter provided, be imposed on an enrolled member of the Force, namely:--

Major penalties:-

- (i) *dismissal from service which shall ordinarily be a disqualification for future employment under the Government;*
- (ii) *removal from service which shall not be a disqualification for future employment under the Government;*
- (iii) *compulsory retirement;*
- (iv) *reduction to lower time scale of pay, grade, post or service for a period to be specified in the order of penalty, which shall be a bar to the promotion of the enrolled member of the Force during such specified period to the time scale of pay, grade, post or service from which he was reduced, with direction as to whether or not, on promotion on the expiry of the said specified period-*
 - (a) *the period of reduction to time-scale of pay, grade, post or service shall operate to postpone future increments of his pay, and if so, to what extent; and*
 - (b) *the enrolled member of the Force shall regain his original seniority in the higher time scale of pay, grade, post or service.*
- (v) *save as provided for in clause (viii) below, reduction to a lower stage in the time scale of pay for a specified period with further directions as to whether or not the enrolled member will earn increments of pay during the period of such reduction and whether on the expiry of such period, the reduction will have the effect of postponing the future increments of his pay.*

Minor penalties:-

- (vi) *censure;*
- (vii) *withholding of his promotion;*
- (viii) *reduction to a lower stage in the time scale of pay by one stage for a period not exceeding three years, without cumulative effect and not adversely affecting his pension;*
- (ix) *withholding of increment of pay;*

(x) *fine to any amount not exceeding of 7 days' pay."*

16. A bare reading of the impugned order dated 21.01.2011 (Annexure P/1) demonstrates that the petitioner's pay was reduced by two stages for a period of two years, with the specific direction that the reduction will have a cumulative effect of postponing his future increments. This punishment squarely falls under Clause (v), which is explicitly categorized as a Major Penalty.

17. At this juncture, it is imperative to address why the imposition of a major penalty in the peculiar unique facts and circumstances of this case is wholly unwarranted and shocks the conscience of this Court. The doctrine of proportionality dictates that the sledgehammer of a major penalty should not be used to crack the nut of a bona fide human error. When the act complained of is a pure accident and not a deliberate, malicious or willfully insubordinate act and where absolutely no harm, loss of life or property damage has been occasioned, the imposition of a major penalty such as a cumulative reduction in pay that permanently stunts petitioner's financial and promotional avenues is shockingly disproportionate. In cases of accidental firing devoid of casualties, the objective of the disciplinary authority should be corrective and redressive, rather than vindictive. The authorities entirely failed to appreciate that the department itself had initially treated the event as a minor lapse by recovering the Rs. 18/- penal cost of the cartridge, explicitly terming it an

accidental firing. Furthermore, the authorities turned a blind eye to compelling mitigating circumstances. By completely disregarding these facts, the disciplinary, appellate and revisional authorities acted with a closed mind.

18. Therefore, while maintaining that weapon discipline in a paramilitary force is undeniably vital, ruining a personnel's career over a harmless accident is arbitrary. The punishment must be commensurate with the gravity of the misconduct and in the present case, a minor, redressive punishment would have squarely met the ends of justice.

19. In light of the aforesaid analysis, this Court is of the considered opinion that the findings of the Disciplinary, Appellate and Revisional Authorities suffer from perversity, a total non-application of mind to the mitigating circumstances and violate the doctrine of proportionality. The imposition of a Major Penalty for an admitted accidental error causing no harm is legally unsustainable.

20. Accordingly, the impugned Disciplinary Order dated 21.01.2011 (Annexure P/1), the Appellate Order dated 14.04.2011 (Annexure P/2) and the Revisional Order dated 16.09.2011 (Annexure P/3) are hereby set aside and quashed. The matter is remitted back to the Disciplinary Authority to reconsider the quantum of punishment afresh. The Disciplinary Authority is directed to take into account the mitigating factors existing in the present case. The Disciplinary Authority shall be at liberty to pass a fresh punishment order

against the petitioner but that should be limited to some minor punishment and not a major punishment. The aforesaid exercise shall be completed and consequential service benefits including the restoration of pay scales, increments and arrears withheld due to the quashed orders shall be calculated and extended to the petitioner within a period of 90 days from the date of receipt of a certified copy of this order.

21. The writ petition stands **allowed** and disposed of.

22. There shall be no order as to costs.

(VIVEK KUMAR SINGH)
JUDGE