

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 13 OF 2019

DISTRICT:- AURANGABAD

Tufansing S/o. Laxmansing Shele,
Age-35 years, Occu. Nil,
R/o. Plot No. 109, Lane No. 3,
Pundlik Nagar, Garkheda Parisar,
Aurangabad.

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APPLICANT

V E R S U S

- 1. The State of Maharashtra,**
Through its Addl. Chief Secretary,
Home Department, M.S.,
Mantralaya, Mumbai-32.
- 2. The Addl. Director General of Police**
(Administration), M.S., Maharashtra
State Police HQ, Old Council Hall,
Shaheed Bhagat Singh Marg,
Mumbai-01.
- 3. The Special Inspector General of**
Police, State Reserve Police Force,
Near Octroi Naka, No. 9,
Hingna Road, MIDC, Nagpur-16.
- 4. The Commandant,**
State Reserve Police Force,
Group-14, IRB,
Mauje Satara Parisar,
Aurangabad-10.

.. **RESPONDENTS**

APPEARANCE : Shri Avinash S. Deshmukh, learned
counsel for the applicant.

: Shri Mahesh B. Bharaswadkar, learned
Chief Presenting Officer for the
respondent authorities.

CORAM : JUSTICE SHRI P.R. BORA, VICE CHAIRMAN
AND
: SHRI VINAY KARGAONKAR, MEMBER (A)

RESERVED ON : 23.07.2024

PRONOUNCED ON : 14.08.2024

ORDER

[Per : Shri Vinay Kargaonkar, Member (A)]

Heard Shri Avinash S. Deshmukh, learned counsel for the applicant and Shri Mahesh B. Bharaswadkar, learned Chief Presenting Officer for the respondent authorities.

2. The Commandant of the State Reserve Police Force (SRPF), respondent No. 4, initiated a departmental enquiry against the applicant on charges of indiscipline detrimental to the interests of the SRPF Group. Following the enquiry, respondent No. 4 issued an order on 17.06.2014, removing the applicant from service. Aggrieved by this order, the applicant filed a departmental appeal and a revision application, both of which were dismissed. Hence, the applicant has filed this Original Application for assailing the order of removal from service and prayed for reinstatement in service.

3. **Pleadings and arguments by the applicant: -**

(i) The applicant entered in the service of Reserved Police Force as an Armed Constable on 12.11.2007 and was initially appointed by the Commandant, S.R.P.F.

Group-3, Jalna. The departmental enquiry was ordered against the applicant when he was posted on duty at S.R.P.F. Group-14 (IRB). In that departmental enquiry it was alleged that the applicant has indulged in certain acts of indiscipline by arguing with the in-charge Commandant and others and further having left the parade ground while throwing away his uniform cap attached with the SRPF monogram on the ground. In the backdrop of the departmental enquiry the applicant was suspended on 06.09.2016 by respondent No. 4. Respondent No. 4 had placed the applicant under suspension in view of the fact that a complaint against him of some criminal offence was under investigation or trial. However, no such offence was under investigation or trial against the applicant meaning that the very action of suspension taken by respondent No. 4 against the applicant, was absolutely wrong and incorrect. On 11.11.2016 respondent No. 4 had issued an order initiating departmental enquiry against the applicant. The charge of indiscipline detrimental to the interests of the SRPF Group was leveled against the applicant on the basis of alleged incident dated 23.08.2016. In due course of time respondent No. 4 appointed an Assistant Commandant, D-Company from SRPF Group-14 (IRB), Aurangabad as Enquiry Officer (EO), who conducted the departmental enquiry against the applicant. The EO had submitted his report to the respondent No. 4 on 04.05.2017 and on the basis of that report, respondent No. 4 issued show cause notice of dismissal from service to the applicant on 15.05.2017. EO had reached to the conclusion that the applicant was

guilty of the charge leveled against him. The EO had referred to service career of the applicant of about 10 years and had taken note of the fact that the applicant had received as many as 52 awards.

(ii) Learned counsel for the applicant further submits that 02 charges leveled against the applicant in the departmental enquiry show and establish that the misconduct could be termed as acts of minor indiscipline which however have been blown out of proportion by the respondent authorities. Even assuming for a moment, without admitting that there was some substance in the allegations leveled against the applicant, however, those allegations were not such which deserved imposition of a major penalty upon the applicant. The said aspect was not kept in mind by none of the respondent authorities while imposing the punishment and confirming the same. On 23.08.2016 the alleged incident was only due to the foul language against the applicant and act of attacking the applicant with a stick by the Incharge Commandant. As an instant reaction to that the applicant had expressed his anger by removing his cap, which however incidentally slipped out of his hands and fell on the ground. The background in which the incident dated 23.08.2016 had happened needs to be taken into consideration coupled with the fact that the applicant had himself immediately picked up his cap and left the parade ground as per orders of Commandant.

(iii) Respondent No. 4 had taken recourse to the provisions of Rule 3(1)(ii) of the Bombay Police (P & A)

Rules for imposing the punishment of removal upon the applicant. Being aggrieved by the said order of his removal from service the applicant had preferred departmental appeal before respondent No. 3 on 07.08.2017 and replied that the order of his removal from service be quashed and set aside. The appeal filed by the applicant was dismissed by respondent No. 3 (Special IGP, SRPF) by an order dated 11.10.2017. Being aggrieved by dismissal of his appeal, respondent No. 3, the applicant preferred revision application before respondent No. 2 on 27.11.2017. On 18.07.2018 respondent No. 2 issued an order rejecting revision application of the applicant.

(iv) The impugned order of removal from service of the applicant dated 17.06.2017 is *ab-initio void* and illegal *per se* as having been issued by respondent No. 4 under the provisions of the Bombay Police (P&A) Rules, which are not applicable to the applicant. The applicant being a member of the subordinate rank of the State Reserve Police Force which is specifically constituted under and governed by the provisions of the SRPF Act is necessarily and mandatorily governed only by the provisions of the said SRPF Act and not by the provisions of the Bombay Police (P&A) Rules. Therefore, the action of respondent No. 4 of removing the applicant from service by applying the provisions of Rule 3(1)(ii) of Bombay Police (P&A) Rules is patently bad and unsustainable in law. In view of the provisions of Sections 3, 4, 7, 14, 15, 17 and 18 of the SRPF Act, the applicant being a member of the subordinate rank of the State Reserve Police Force, it was legally open for respondent No. 4 to have proceeded

against him in relation to his alleged acts of indiscipline only under the provisions of Ss. 14 (g)(iv) r/w the explanation thereunder of the SRPF Act and not under the provisions of the Bombay Police (P&A) Rules. Respondent No. 4 has precisely issued the impugned order of removal under the provisions of Rule 3 (1) (ii) of the Bombay Police (P&A) Rules, which is unsustainable and untenable in law.

(v) Though Section 19 of the SRPF Act speaks of every Reserve Police Officer being a Police Officer as defined in the Bombay Police Act of 1951, however, the said provision excludes such aspects/matters, which are covered in Sections 1 to 18 of the SRPF Act for which the Reserve Police Officers are not to be treated as Police Officers under the Bombay Police Act. However, the provisions of Sections 14, 15 17 and 18 read with the power u/s 21 conferred upon the State Government to make rules regarding disciplinary matters specifically provide for punishments to be imposed upon the members of subordinate ranks of the Reserve Police Force like the applicant, it was not open, legal and permissible for respondent No. 4 to take recourse to the provisions of the Bombay Police (P&A) Rules for proceeding against the applicant departmentally and for punishing him on the basis of the said set of approval.

4. **Pleadings and arguments by the respondents.**

(i) The applicant joined service on 12.11.2007 as Police Constable and was initially appointed at S.R.P.F., Group-3,

Jalna and thereafter he was posted at SRPF Group-14, Aurangabad.

(ii) On 23.08.2016 while conducting platoon drill the applicant was laughing loudly. At that point of time, Drill Instructor confronted the applicant and asked him why he was laughing. The applicant answered very arrogantly and said that he was not laughing but was coughing. Drill Instructor instructed the applicant to come out of the platoon. While coming out of platoon, the applicant broke the discipline of the drill and platoon and started arguing arrogantly and loudly with the Drill Instructor. When the Company Nayak inquired with applicant, the applicant started arguing with Company Nayak too. Thereafter, when the In-charge commandant was trying to convince the applicant for not shouting loudly, at that time the applicant misbehaved with the Commandant by shouting loudly and talking without manner. Seeing the violent behavior of the applicant, Shri Panjesha, Police Inspector, removed the rifle from the applicant. At that time, the applicant threw his police cap, which had police monogram, on the ground in anger and left the parade ground without seeking anyone's permission in front of the several police personnel who were part of the platoon. This act of the applicant shows grave disrespect to the disciplined police force and could set a very bad precedent among police personnel. Departmental enquiry was conducted against the applicant for above mentioned act of indiscipline in which he was found guilty. The Commandant, S.R.P.F. Group-14, Aurangabad imposed the punishment of removal from service on 17.6.2017.

The applicant filed his appeal before Spl. IGP, SRPF, Nagpur against the order dated 17.06.2017, which was rejected on merits. Thereafter, the applicant filed his revision application on 27.11.2017 and this revision application was also rejected.

(iii) The applicant had committed an undisciplined act of grave misbehavior in front of several police personnel. Act of the applicant shows grave disrespect to the Disciplined Police Department, and could set a very bad precedent among police personnel, if it is left unpunished. The applicant does not deserve any sympathy for such undisciplined act and hence the application of the applicant may kindly be dismissed.

(iv) The respondents further submitted that the Bombay Police Act, 1951 is applicable to the Police personnel from SRPF too. Bombay State Reserved Police Force Rules, 1951 has provisions, which make Bombay Police Act, 1951 applicable to the SRPF. Rule 03 of the Bombay State Reserved Police Force Rules, 1951 provides that the superintendence and control over the Reserved Police Force shall be subject to authority of the State Government, be exercised and carried on or be administered through the Inspector General of Police, State of Bombay. The provisions of this rule make it abundantly clear that the Inspector General of Police appointed by the State Government is the Head of SRPF and has control and supervision over SRPF. Rule 5(2) of the SRPF Rules, 1959 provides that the Commandant of each Group is vested with authority for the regulation,

direction and administration of the Group as its Executive Head.

(v) The impugned order of removal has been issued by the respondents after conducting the detailed departmental enquiry against the applicant and the charges were proved in the departmental enquiry. Respondents have taken into consideration all the points raised by the applicant in his reply before passing the impugned order. Original Application filed by the applicant is devoid of merits and the same needs to be rejected.

The reasoning and conclusions :

5. The primary argument presented by the learned counsel for the applicant is that the applicant has been unjustly punished under Rule 3(1)(ii) of the Bombay Police (Punishment & Appeal) Rules. The learned counsel contends that SRPF constables are governed by the SRPF Act and not by the provisions of the Bombay Police (Punishment & Appeal) Rules. Maharashtra Police Act, Sec 3 is reproduced below:

“3. One Police Force for the [whole of the State (State of Maharashtra)]

There shall be one Police Force for the 1[whole of the 2[State of Maharashtra]] 3[and such Police Force shall include every Police Officer referred to in clause (6) of section 2]:

Provided that, the members of the Police Forces constituted under any of the Acts mentioned in Schedule I immediately before the coming into force of this Act 4[in the relevant part of

the State] shall be deemed to be the members of the said Police Force.”

“14A-1) “Specialized agencies” means Crime Investigation Department, State Intelligence Department, Protection of Civil Rights, Anti-Corruption Bureau, State Reserved Police Force, Anti-Terrorist Squad, Highway Traffic & Training Directorate.”

Section 3, in conjunction with Section 14A-1 of the Maharashtra Police Act, confirms that the State Reserve Police Force (SRPF) is a specialized agency within the Maharashtra Police, and not a separate entity from the Maharashtra Police Force. As the SRPF is part of the Maharashtra Police, the Bombay Police (Punishment & Appeal) Rules are applicable to SRPF constables. Relevant Sections of Bombay State Reserve Police Force Act, 1951 are reproduced below:

“4. The superintendence of and control over the State Reserve Police Force shall vest in the Government; and the State Reserve Police Force shall be administered by the State Government in accordance with the provisions of this Act and of any rules made thereunder, through such officers as the State Government may from time to time appoint in this behalf.”

“7. Notwithstanding anything contained in this Act or the Bombay Police Act, 1951, it shall be competent to the State Government to transfer members of [* *] the Police Force appointed under the Bombay Police Force Act, 1951 to the State Reserve Police Force established under this Act and vice versa:*

Provided that the State Government may delegate its power under sub-section (1) in so far as it relates to the transfer of members of the subordinate ranks of the respective Police Force to the Inspector-General.

(2) *On the transfer of a member of the Police Force appointed under the Bombay Police Act, 1951, to the State Reserve Police Force established under this Act or vice versa, he shall be deemed to be a member of the Police Force to which he is*

transferred and in the performance of his functions, he shall, subject to such orders as the State Government may make, be deemed to be vested with the powers and privileges, and be subject to the liabilities of a member of such grade in the Police Force to which he has been transferred as may be specified in the orders.”

19. Except as specifically provided in the foregoing sections of this Act, every reserve police officer shall for all purposes be deemed to be a police officer as defined in the Bombay Police Act, 1951, and the provisions of that Act shall, except in so far as they are inconsistent with the provisions of this Act, apply to every such reserve police officer.

6. The aforementioned sections, particularly Section 19 of the Bombay State Reserve Police Force Act, 1951, reaffirm that State Reserve Police Officers are deemed to be police officers as defined in the Bombay Police Act, 1951. Consequently, the provisions of the Bombay Police Act, 1951 shall apply to every such reserve police officer. Rule 3(1) (ii) of Bombay Police (Punishment & Appeal) Rules, 1956 is reproduced below:

“3.(1) Without prejudice to the provisions of any law for the time being in force, the following punishments may be imposed upon any Police Officer namely:-

*(a-1) (****)*

(a-2) suspension;

(i) reduction in rank, grade or pay or removal from any office of distinction or withdrawal of any special emoluments;

(i-a) compulsory retirement;

(ii) removal from service which does not disqualify from future employment in any Department other than the Police Department.

(iii) dismissal which disqualifies from future employment in Government Service.”

7. Abovementioned rule does not make any exception and it is applicable to all Police officers including Specialized Agency like State Reserve Police Force. Relevant rules of Bombay State Reserve Police Force Rules, 1959 are reproduced below:

(4) If it is decided to deal with the alleged offender departmentally, the procedure followed in dealing with officers of the State Police Force shall be followed and the Commandant shall be deemed to be a District Superintendent of Police for the purpose of awarding departmental punishment.

(5) If as a result of the proceedings described in sub-rule (4) above, it is found that the defaulter is guilty of the offence of which he is accused, he shall be given any of the punishments prescribed in section 18 of the Act or in section 25 of the Bombay Police Act, 1951, read with section 19 of the Act as the case may be.

Both the aforementioned rules of the State Reserve Police Force Rules, 1959, also clarify that the punishments prescribed in the Bombay Police Act, 1951, can be imposed on constables and officers of the State Reserve Police Force. The respondents have lawfully exercised their authority in disciplining the applicant under Rule 3(1)(ii) of the Bombay Police (Punishment & Appeal) Rules. The decision was made in accordance with the established legal framework, ensuring that due process was followed. The punishment imposed is consistent with the rules

governing police conduct, reflecting a fair and just application of the law. The respondents' actions are neither arbitrary nor unjustified, but rather a necessary measure to uphold the integrity and discipline of the police force.

8. The State Reserve Police Force (SRPF) of Maharashtra operates as a crucial component of the Maharashtra Police Force. It serves as a specialized wing, handling a range of responsibilities from law & order, riot control, counter-insurgency operations to disaster management. The governance and disciplinary mechanisms of the SRPF officers are encompassed within the broader regulatory framework of the Bombay Police Act, including its provisions for punishment and appeal. The SRPF was established to provide immediate and effective response to situations that demand rapid deployment and operates under the umbrella of the Maharashtra Police Force. Its mandate includes maintaining public order during large gatherings, controlling civil unrest, countering terrorism, and providing assistance during natural disasters. The SRPF units are strategically stationed across various districts in Maharashtra, ensuring that they can be mobilized swiftly to any location requiring their expertise. The State Reserve Police Force functions under the command and

administrative control of the Director General of Police (DGP) of Maharashtra, who oversees all police units within the state. This unified command structure ensures coherence in operational strategies and resource allocation across the different wings of the Maharashtra Police Force, including the SRPF.

9. The SRPF collaborates closely with other branches of the Maharashtra Police, such as local police units, the Anti-Naxal Operations, and the Anti-Terrorism Squad (ATS). This cooperation is vital for effective law enforcement and emergency response, underscoring the integral role of the SRPF within the state police framework.

10. The Bombay Police Act provides the legal foundation for policing in Maharashtra, encompassing rules for discipline, conduct, punishment, and appeals. The inclusion of SRPF officers under this Act ensures a standardized approach to governance and accountability across the entire police force. By subjecting SRPF officers to the same disciplinary rules as other Maharashtra Police personnel, the Bombay Police Act promotes consistency and fairness in addressing misconduct. The Act outlines a comprehensive range of punitive measures and

appeal mechanisms, ensuring that disciplinary actions are transparent and just.

11. The governance of SRPF officers under the Bombay Police Act reinforces accountability. The Act mandates rigorous procedures for reporting, investigating, and adjudicating cases of misconduct or negligence, thereby upholding the integrity and professionalism of the Maharashtra Police Force. Uniform governance under the Bombay Police Act ensures that all police officers, regardless of their specific unit, adhere to the same legal and procedural standards. This uniformity is crucial for maintaining discipline and operational effectiveness across diverse policing functions. The State Reserve Police Force of Maharashtra, as an integral part of the Maharashtra Police Force, benefits significantly from being governed under the Bombay Police Act (Punishment and Appeal) Rules. This governance framework ensures consistency, accountability, and legal uniformity across the entire police force. By adhering to the same disciplinary and appeal procedures, SRPF officers are held to the highest standards of conduct, thereby enhancing the overall effectiveness and integrity of law enforcement in Maharashtra.

12. The Commandant of the State Reserve Police Force (SRPF) acted within his legal rights under the Bombay Police Act

in imposing punishment on the Applicant. The disciplinary action taken was fully compliant with the SRPF Act, SRPF Rules, and the Bombay Police Act (Punishment & Appeal) Rules. By adhering to these established legal frameworks, the Commandant ensured that the process was both fair and justified, upholding the integrity and discipline essential to the functioning of the SRPF. This rigorous adherence to legal procedures underscores the legitimacy of the Commandant's decision. The applicant's claim that he was unjustly punished under Rule 3(1)(ii) of the Bombay Police (Punishment & Appeal) Rules is without merit.

13. The learned counsel for the applicant has also argued that the punishment of removal from service is disproportionate to the misconduct of the applicant. The learned counsel has relied on two Apex Court judgments. The observations made by the Hon'ble Apex Court in the case of **CHIEF EXECUTIVE OFFICER, KRISHNA DISTRICT CO-OPERATIVE CENTRAL BANK LTD, and another Vs. K. HANUMANTHA RAO and another**, Civil Appeal No. 11975/2016, decided on 9.12.2016, which are relevant in the context of the present case are reproduced hereinbelow

Disciplinary Proceedings- Judicial review – Scope- Punishment – Decision qua nature and quantum of punishment to be imposed on delinquent is prerogative of disciplinary authority. Courts while undertaking judicial review over such matters, do not sit as Appellate Authority- Cannot substitute its own opinion on reappraisal of facts. It is not function of High Court to impose a particular punishment even

in those cases where it was found that penalty awarded by employer is shockingly disproportionate. Matter could, at the best, be remanded to disciplinary authority for imposition of lesser punishment.”

It is trite that Courts, while exercising penalty awarded by the disciplinary authority/employer is wholly their power of judicial review over such matters, do not sit as the Appellate Authority. Decision qua the nature and quantum is the prerogative of the disciplinary authority. It is not the function of the High Court to decide the same. It is only in exceptional circumstance, where it is found that the punishment/penalty awarded by the disciplinary authority/employer is wholly disproportionate, that too to an extent that it shakes the conscience of the Court, that the Court steps in and interferes. This limited power of judicial review to interfere with the penalty is based on the doctrine of proportionality which is a well-recognized concept of judicial review in our jurisprudence. The punishment should appear to be so disproportionate that it shocks the judicial conscience. No such finding is arrived at by the High Court to the effect that the punishment awarded to respondent 1 was shockingly disproportionate. The impugned order is also faulted for the reason that it is not the function of the High Court to impose a particular punishment even in those cases where it was found that penalty awarded by the employer is shockingly disproportionate. In such a case, the matter could, at the best, be remanded to the disciplinary authority for imposition of lesser punishment leaving it to such authority to consider as to which lesser penalty needs to be inflicted upon the delinquent employee. No doubt, the administrative authority has to exercise its powers reasonably. However, the doctrine that powers must be exercised reasonably has to be reconciled with the doctrine that the Court must not usurp the discretion of the public authority. The Court must strive to apply an objective standard which leaves to the deciding authority the full range of choice. In this case the punishment imposed was not shockingly disproportionate; therefore, no question of remitting the case to the disciplinary authority arises. The impugned judgment of the Division Bench of the High Court set aside. (Para 8)”

“17. Even in cases where the punishment imposed by the disciplinary authority is found to be shocking to the conscience of the Court, normally the disciplinary authority or the appellate authority should be directed to reconsider the question of imposition of penalty. The High Court in this case, has not only interfered with the punishment imposed by the disciplinary authority in a routine manner but overstepped its

jurisdiction by directing the appellate authority to impose any other punishment short of removal. By fettering the discretion of the appellate authority to impose appropriate punishment for serious misconducts committed by the respondent, the High Court totally misdirected itself while exercising jurisdiction under Article 226. Judged in this background, the conclusion of the Division Bench of the High Court cannot be regarded as proper at all. The High Court has interfered with the punishment imposed by the competent authority in a casual manner and, therefore, the appeal will have to be accepted.”

In the matter of **STATE OF MADHYA PRADESH AND OTHERS VS.**

HAZARILAL, (2008) 3 Supreme Court Cases 273, the delinquent employee was Peon in Middle School and was convicted under Section 323 r/w 34 of Indian Penal Code for assaulting a person, and consequently fine of Rs. 500 was imposed on him. Conviction in the aforesaid matter and the sentence imposed upon him therein resulted in removal him from service. While setting aside the said order the Hon’ble Supreme Court held that :

“Power conferred on the disciplinary authority to dispense with enquiry against a government servant and to impose penalty under the relevant Rule "on the ground of conduct which has led to his conviction on a criminal charge" does not mean that irrespective of the nature of the case in which he is involved or the punishment which has been imposed on him, an order of dismissal must be passed. Such a construction is not warranted.

An authority which is conferred with a statutory discretionary power is bound to take into consideration all the attending facts and circumstances of the case before imposing an order of punishment. While exercising such power, the disciplinary authority must act reasonably and fairly. The respondent occupied the lowest rank of the cadre. He was merely a contingency peon. Continuation of his service in the department would not bring a bad name to the State. He was not convicted for any act involving moral turpitude. He was not punished for any heinous offence. The Administrative Tribunal rightly held that departmental penalty was excessive as compared to conduct for which the respondent was convicted and sentence imposed on him.”

14. In a democratic society, law enforcement officers hold a position of immense responsibility and trust. Their actions must align with the law and ethical standards, given their critical role in upholding justice and public order. When police officers, including constables, engage in misconduct, it is essential that the punishment imposed is proportionate to the severity of their actions. Disproportionate punishment can undermine justice and affect the morale and integrity of the police force. The principle of proportionality is a cornerstone of just and fair legal systems. It ensures that the severity of the punishment corresponds to the gravity of the misconduct. This principle is especially crucial in disciplinary proceedings against police personnel, who are expected to maintain high standards of conduct.

The Supreme Court of India has consistently upheld this principle in the following judgments: -

1. **Union of India v. G. Ganayutham (1997) 7 SCC 463**

In this landmark judgment, the Supreme Court elaborated on the principle of proportionality in administrative law. The Court held that disciplinary actions must not be excessive and should be commensurate with the misconduct. It emphasized that the penalty should not be so disproportionate as to shock the conscience of the court. This judgement is significant in setting a benchmark for evaluating the proportionality of punishment in disciplinary cases.

2. **Ranjit Thakur v. Union of India (1987) 4 SCC 611**

This case provides a comprehensive analysis of proportionality in disciplinary proceedings. The Supreme Court quashed the punishment of dismissal imposed on a military officer for a minor offense, deeming it grossly

disproportionate. The Court highlighted that the punishment should be reasonable and not arbitrary, stressing that even if the misconduct is proved, the punishment should fit the nature and extent of the offense.

3. **Chairman-cum-Managing Director, Coal India Limited v. Mukul Kumar Choudhuri (2009) 15 SCC 620**

In this case, the Supreme Court reiterated that while the employer has the authority to impose disciplinary actions, the punishment must be just, fair, and not excessively harsh. The Court quashed the penalty of removal from service as it was disproportionate to the charge of unauthorised absence from duty.

15. The past record of the applicant shows that he has not been inflicted with any major punishments. He has only received six minor punishments and has been awarded 52 rewards. Alleged incident on 23/08/2016 on the parade ground, where the applicant argued arrogantly with the Commandant and threw his cap on the ground, was undeniably an act of indiscipline. However, the punishment of removal from service appears disproportionate to the misconduct, especially when considering the constable's past record. While discipline is crucial, the severity of the punishment should align with the gravity of the offense. In this case, a less severe disciplinary action might have been more appropriate, reflecting a balance between maintaining order and recognizing the constable's prior service record.

16. In light of the above discussion, the following order is passed:

ORDER

- (i) Respondents (disciplinary authority) should reconsider the punishment imposed on the applicant.
- (ii) This shall be done within 2 months from the date of this order.
- (iii) The Original Application stands disposed of in the above term, however, without any order as to costs.

MEMBER (A)

VICE CHAIRMAN

PLACE : AURANGABAD

DATE : 14.08.2024

O.A.NO.13-2019(DB)-2024-vinay kargaonkar-HDD-Removal from service