2026:CHC-JP:130

Form J(2)
JPD Sl.No. 01

In the High Court at Calcutta
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Aniruddha Roy

WPA 340 OF 2021

Mukesh Kumar Pandey

Vs.

The Union of India and Ors.

For the Petitioner	:	Mr. Santosh Kumar Dhar, Adv. Mr. Ashit Kumar Das, Adv.
For the Respondents / Union of India	:	Mr. Sudipto Kumar Mazumdar, Ld. DSGI Mr. Ajoy Kumar Singhania, Adv.
Reserved on	:	May 19, 2026
Judgment on	:	June 11, 2026

Aniruddha Roy, J. :

Facts:

1. Petitioner was appointed at the post of **Constable** (General Duty) under ***Sashastra Seema Bal*** (hereinafter, ***SSB***) under an appointment memo dated ***May 20, 2006***, ***Annexure P1*** at ***page 23*** to the writ petition. The

appointment was governed under the provisions of ***The Central Reserve Police Force Act, 1949*** (hereinafter, ***CRPF Act***).

2. At the time of commencement of the service, during joining, the petitioner under his service terms and conditions was to furnish declaration and if any such declaration given or information furnished by the petitioner proves to be false or found to have willfully suppressed any material information, his service would be liable to be terminated along with such other action as the Central Government may deem necessary.

3. After the appointment, the petitioner was posted as Constable (General Duty) and reported before the Commandant, 3rd Bn., SSB, Almora, Uttarakhand, on ***June 16, 2006***. Petitioner thereafter was deemed to have been confirmed in the sanctioned post of Constable, as stated by the petitioner.

4. At the time of joining of the service the petitioner had signed and submitted the SSB Directorate Verification Roll on ***July 13, 2006***. The petitioner states that a person used to fill up the Verification Roll for all the appointees and directed the appointees to sign on it. The petitioner states that the content of the Verification Roll which was filled up by him was not explained to him. Due to inexperience and inadvertence the petitioner did not carefully notice the quarries mentioned in clause 12 of the form. Petitioner was informed that the Verification Roll was filled up by the petitioner correctly.

5. Disciplinary proceeding was initiated against the petitioner. The records of the disciplinary proceeding have been disclosed by the respondents in its affidavit-in-opposition. Finally the charge was proved against the petitioner and by an order dated ***March 5, 2013***, ***Annexure R4*** at ***page 63*** to the affidavit-in-opposition, the petitioner was punished with a **minor punishment** by awarding **seven days pay fine** after taking a **lenient view** by Disciplinary Authority. The finding from the said order dated ***March 5, 2013***, inter alia, is quoted below.

> *"**
> **
>
> 6. Whereas on the basis of above undersigned has come to the conclusion that the Article of Charge – I framed against the charged official is stand proved.*
>
> *7. Whereas, on a careful consideration of the enquiry report and his representation in the contest of Hon'ble Supreme Court of India's judgement the undersigned as Disciplinary Authority has come to conclusion that No.060100748 CT/GD Mukesh Kumar Pandey of 'G' Coy has committed an offence but when the incident happened CT/GD Mukesh Kumar Pandey was about 21 years of age and at that age young people often commit indiscretions and such indiscretions can often been condoned and modern approach should be to condoned minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives. It is true that in the application form he did not mention that he was involved in a criminal case but probably he did not mention this out of fear or inadvertently.*
>
> *8. And whereas hence undersigned has awarded 07 (seven) days pay fine in the above case taking a lenient view."*

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6. By a communication dated ***May 9, 2017***, ***Annexure R5*** at ***page 65*** to the affidavit-in-opposition, Assistant Director had observed and directed, inter alia, as follows:-

> *"**********
> **********
> 02. The matter has been examined at FHQ after getting detail report of the case from Comdt. 40th Bn and it is revealed that Commandant 40th Bn. has indeed taken a lenient view in the case of CT/GD Mukesh Kumar Pandey by awarding him minor punishment of 07 days pay fine only even though the charges for suppressing the facts and having registered a criminal case against him was proved during department enquiry conducted against him by 40th Bn, whereas in the identical case of CT/GD Pappu Kumar Pandey (applicant) of 7th Bn, major punishment was inflicted upon him by way of dismissing him from service by Comdt. 07th Bn. the same offence, same circumstances warrant similar punishment especially when the rule is specific and not ambiguous.*
>
> *3. The competent authority has desired that such appointments are void-ab-initio and can not be regularized, therefore DIG Sector is requested to revise the punishment earlier awarded to Constable/GD Mukesh Kumar Pandey under relevant rules being competent authority in the instant case after obtaining the records of the case from concerned Unit, please.*
>
> *This issued with the Approval of ADG."*

7. On ***November 10, 2017***, the petitioner was served with the ***first show-cause notice*** (hereinafter, ***first show-cause notice***), ***Annexure P5*** at ***Page 37*** to the writ petition. Petitioner did not reply thereto.

8. The charge under the said first show-cause notice was that the petitioner had given false information to the questions set forth in the prescribed

form of SSB Directorate Verification Roll at the time of appointment for the purpose of being enrolled to the effect that the petitioner had concealed the fact that no case was either disposed of or pending against him. The petitioner, therefore, was alleged to have committed an offence under ***Section 25*** of ***SSB Act***. Hence, a disciplinary proceeding was initiated against the petitioner under ***Rule 23 of SSB Rules, 2009*** (hereinafter, ***SSB Rules***) for furnishing false information at the time of appointment. Petitioner was directed to show-cause. Petitioner did not reply to the said show-cause.

9. On ***August 20, 2019***, a ***second show-cause notice*** (hereinafter, ***second show-cause notice***), ***Annexure P6*** at ***page 39*** to the writ petition was served on the self-same charge for furnishing false information or suppression of any information in Verification Roll. The said show-cause notice stated that the DIG in exercise of its power under ***Rule 29(d)*** of ***CRPF Rules, 1955*** had annulled the punishment and the order of punishment dated ***March 5, 2013*** has found it to be not commensurate with the offence committed.

10. Petitioner through its letter dated ***September 2, 2019***, ***Annexure P7*** at ***page 42*** to the writ petition had submitted its reply relying upon the punishment already he had served in the previous disciplinary proceeding. He had also challenged the revision of previous order of punishment.

11. On ***October 4, 2019***, ***Annexure P8*** at ***page 44*** to the writ petition, the DIG, SHQ, SSB had served the ***third show-cause notice*** (hereinafter, ***third show-cause notice***) and informed the petitioner that the appointment of the petitioner, on the self-same charge was void *ab initio* and cannot be regularized. By a letter date ***October 14, 2019***, ***Annexure P9*** at ***page 46*** to the writ petition, the petitioner had submitted its reply denying the allegation in the third show-cause.

12. On ***October 25, 2019***, by an order, ***Annexure P10*** at ***page 50 and 51*** to the writ petition, the DIG, SHQ, SSB had **terminated the service** of the petitioner.

13. On ***October 28, 2019***, the petitioner had filed an appeal before the Inspector General Frontier HQrs. being the Appellate Authority, ***Annexure P11*** at ***page 53*** to the writ petition. The Appellate Authority by its order dated ***December 24, 2019***, ***Annexure P12*** at ***page 56*** to the writ petition, had rejected the appeal and upheld the order of dismissal of the petitioner.

14. Being aggrieved by the said order of the first Appellate Authority dated ***December 24, 2019***, the petitioner preferred a second appeal dated ***May 27, 2020***, ***Annexure P13*** at ***page 59*** to the writ petition. By an order dated ***July 28, 2020***, ***annexure P14*** at ***page 62*** to the writ petition, the second Appellate Authority had rejected the said second appeal and upheld the decision for termination of service of the petitioner.

15. Being aggrieved, the instant writ petition had been filed with the following prayers :-

> *"(a) A writ and/or order or orders and/or direction or directions in the nature of Mandamus directing the respondents and each of them to forebear from giving effect to and/or further effect to and/or rescind, recall, set aside and quash the impugned order of removal dated 25.10.2019 (Annexure-P/10) and the order of the Appellate Authority dated 24.12.2019 (Annexure-P/12) and order of the Director General SSB dated 28.07.2020 (Annexure P/14) forthwith in accordance with law;*
>
> *(b) A writ and / or order or orders and/or direction or directions in the nature of Mandamus directing the respondents and each of them to reinstate the petitioner to the post of Constable (General Duty) under Sashastra Seema Bal and allow the petitioner to enjoy all the service benefits as admissible forthwith in accordance with law;*
>
> *(c) A writ and/or order or orders and/or direction and/or directions in the nature of certiorari commanding the respondents and each of them to transmit and certify the records of the case so that conscionable justice may be done by quashing the impugned order of removal dated 25.10.2019 (Annexure-P/10) and the order of the Appellate Authority dated 24.12.2019 (Annexure-P/12), and the order of the Director General SSB dated 28.07.2020 (Annexure P/14);*
>
> *(d) Rule NISI in terms of prayer (a), (b) and (c) as above;*
>
> *(e) An order of injunction till disposal of Rule restraining the respondents and each of them from giving effect to and /or further effect to the impugned order of removal dated 25.10.2019 (Annexure-P/10) and the order of the Appellate Authority dated 24.12.2019 (Annexure-P/12) and the order of the Director General SSB dated 28.07.2020 (Annexure P/14);*
>
> *(f) Ad interim order in terms of prayer (e) as above;*
>
> *(g) Costs and incidentals to this petition;*

(h)Such other or further order or orders as to your Lordship may deem fit and proper."

16. Petitioner states that the criminal case against the petitioner pursuant to ***FIR No.227/2005***, Police Station Rahika, District Madhubani (Bihar), has been disposed of by the jurisdictional criminal court on ***June 27, 2023***, whereunder the petitioner has been acquitted.

17. Parties have filed their respective affidavits and written notes, which are on record.

Submissions:

18. Mr. Santosh Kumar Dhar, learned Advocate appearing for the petitioner submits that in the year 2006 the petitioner was appointed under the SSB Act. Referring to Section 156 of SSB Act, he submits that Sashatra Seema Bal which was in existence at the commencement of the said Act shall be deemed to be the force constituted under the said SSB Act. The Sashatra Seema Bal at the commencement of the said SSB Act shall be deemed to have been appointed or as the case may be, enrolled as such under the said Act. Specifically referring to sub-Section (3) to Section 156 read with its proviso of the SSB Act, learned Advocate for the petitioner submits that anything done or any action taken before commencement of SSB Act in relation to the constitution of the Sashatra Seema Bal referred to sub-Section (1), in relation to any person appointed or enrolled, as the case may be, thereto, shall be valid and

effective in law, as if such, thing or action was done or taken under this Act. The proviso provides that nothing in sub-Section (3) shall render any person guilty of any offence in respect of anything done or omitted to be done by him before commencement of this Act.

19. Mr. Santosh Kumar Dhar, learned Advocate, appearing for the petitioner submits that under the said order dated ***March 5, 2013***, the petitioner was punished with the punishment inflicted upon him. The said punishment had reached its finality. The said punishment could not have been annulled by the DIG on ***August 20, 2019***, in the second show-cause notice without giving any opportunity to appeal to the petitioner, though the petitioner had challenged the annulment in reply dated ***September 2, 2019***. The said annulment of punishment was in clear violation of ***Articles 19(1)(g)*** and ***21*** of the Constitution. In support, he has relied upon a decision of this Court dated ***August 4, 2025***, ***In the matter of : Ravi Kumar Ray Vs. Union of India & Ors. rendered in WPA 12860 of 2024***.

20. Learned Advocate for the petitioner submits that a departmental enquiry was conducted under Rule 27 of CRPF Rules and thereafter, the Commandant having been satisfied that the mistake on the part of the petitioner was bona fide awarded the punishment. The said DIG annulled the punishment on ***October 4, 2019*** without considering the petitioner's reply dated ***October 14, 2019***.

21. Learned Advocate for the petitioner submits that the DIG, SSB, Jalpaiguri, after exercising its power under Rule 29(d) of CRPF Rules became functus officio and could not have exercised its power in this case for terminating the service of the petitioner. Since the petitioner was a permanent employee having served the SSB for more than 30 years, without holding a proper disciplinary proceeding, his service could not have been terminated.

22. Learned Advocate for the petitioner then refers to Rule 29 of the CRPF Rules and submits the power of revision vests in favour of a member of the force whose appeal has been rejected by a Competent Authority under sub-Rule (a) to Rule 29 of the CRPF Rules. Sub-Rule (d) is merely a procedure thereunder. Sub-Rule(d) to Rule 29 of CRPF Rules does not empower the DIG, SHQ, SSB, Jalpaiguri, to annul the previous punishment in absence of any revision being preferred by a member of the force. In the instant case, the petitioner, as the member of the force, had not preferred any revision under Rule 29 of the CRPF Rules.

23. Petitioner further submits that the order of termination emanated from the decision for annulment of previous punishment. Therefore, there was no requirement for the petitioner to challenge the decision for annulment of the previous punishment and the challenge towards the termination order is sufficient.

24. Learned Advocate for the petitioner further submits that the order of annulment in exercise of power under Rule 29(d) of CRPF Rules is wholly

without jurisdiction and illegal and, therefore, the order of annulment is bad in law and consequential steps thereunder should be declared as set aside and bad in law. Thus, the writ petition should be allowed.

25. Mr. Sudipto Kumar Mazumdar, learned Deputy Solicitor General of India, appearing for the respondents submits that the petitioner was appointed in Sashatra Seema Bal on ***June 16, 2006***, when he was governed under CRPF Act and Rules. On and from ***December 20, 2007***, SSB Act had come into force. SSB Rules came into force on ***July 31, 2009***. Thus, SSB Act and Rules became effective on all personnel of SSB and the petitioner was also governed under the said SSB Act and Rules.

26. As a member in the disciplined force the petitioner had not informed the pending criminal case against him and on the contrary while filling up the relevant form he had deliberately suppressed the information.

27. Initially the petitioner, by an order dated ***March 5, 2013***, was punished by the jurisdictional authority and penalty was awarded for seven days pay fine after taking a lenient view. The appropriate authority of the respondents was of the opinion that the punishment inflicted upon the petitioner on ***March 5, 2013***, considering the charges against the petitioner being in a disciplined force, was not at all permissible in law and accordingly the DIG, SHQ, SSB, in exercise of its power under ***Rule 29(d) of CRPF Rules*** annulled the previous punishment dated ***March 5, 2013***. Since the revised punishment was proposed to be enlarged and

grave in nature, the petitioner was served with show-cause notices dated ***August 20, 2019*** and ***October 4, 2019***. The petitioner replied to both the said show-cause notices and ultimately on ***October 25, 2019***, the order of dismissal was passed. The petitioner preferred both first appeal and second appeal as provided under the statute but lost. The order of termination was upheld.

28. Learned Deputy Solicitor General submits that under Rule 29(d) of CRPF Rule the DIG, SHQ, SSB, Jalpaiguri, has power to review the punishment awarded to the petitioner. The authority had applied its independent mind while annulling the previous minor punishment dated ***March 5, 2013***, and then issued show-cause notice and finally passed the order for termination.

29. In any event, the DIG was also empowered to terminate the service on the ground of furnishing false or incorrect information at the time of appointment of the petitioner under Rule 23 of SSB Rules following the procedure laid down thereunder. When the petitioner at the time of his appointment suppressed the material information and deliberately filled up the form with a *mala fide* intent by suppressing the correct information, the appointment of the petitioner, as on the date of his appointment, was void *ab initio*. It was the bounden responsibility and obligation of the petitioner to disclose the correct information while filling up the form at the time of appointment.

30. Learned DSG Mr. Mazumdar then submits that CRPF Rules was promulgated in 1955 when Rule 29 was already there, the power of revision. Sub-Rule (d) to Rule 29 was inserted by way of an **amendment dated *April 22, 1980***. The power of the jurisdictional authority mentioned under sub-Rule (d) to Rule 29 of CRPF Rules to call for records of the award of any punishment and confirm, enhance, modify or annul the same or make or direct further investigation to be made before passing such orders, was incorporated in the Rules by virtue of the said amendment of 1980. He submits that legislature in 1980 when thought it fit that the provision, inter alia, for enlargement or annulment of punishment is required to be engrafted in the Rules, the legislature in its wisdom caused the said 1980 amendment and incorporated the provisions under Rule 29 of CRPF Rules by incorporating sub-Rule (d) thereunder. Mr. Mazumdar submits that there is no other or further provision either under the CRPF Act or under the CRPF Rules to enlarge or annul the previous punishment. Sub-Rule (d) to Rule 29 of CRPF Rules, according to the learned DSG, is an independent provision *de hors* the other sub-Rules under Rule 29 of the CRPF Rules.

31. The DIG, SHQ, SSB, Jalpaiguri, had exercised its power under the said Rule 29(d) of CRPF Rules and annulled the previous punishment and enlarged the same.

32. Learned DSG Mr. Mazumdar submits that at no point of time the petitioner had challenged the decision of the DIG, SHQ, SSB, Jalpaiguri

for annulling the previous punishment and had accepted the same. Following the said decision of annulment when show-cause notices were issued the petitioner had submitted to the jurisdiction and replied thereto, participated in proceeding and ultimately the order of termination was passed dated ***May 9, 2017*** at ***page 65*** to the affidavit-in-opposition. Then the petitioner preferred two appeals both first and second statutory appeals in which the order of termination was upheld. Thus, the petitioner having not challenged the decision for annulment at the relevant point of time and by participating further in the proceeding in furtherance thereof have waived its right to challenge the decision for annulment of previous punishment and had acquiesced to the same.

33. Mr. Mazumdar further submits that the issue may be considered from another angle, from the employer's point of view, the question is not about whether any employee was involved in a dispute of trivial and whether he has been subsequently acquitted or not, the question is about the credibility and/or trustworthiness of the employee who at the initial stage of employment, that is, while submitting the verification form made a false declaration and/or suppressed the material fact of having involved in a criminal case, if the correct facts would have been disclosed the employer might not have appointed him. In support he has relied upon the following decisions:

(a) ***In the matter of : NCT of Delhi & Ors. Vs. Bhhem Singh Meena reported at 2022 SCC OnLine SC 2067***.

(b) ***In the matter of : Rajasthan Rajya Vidyut Prasasan Nigam Limited Vs. Anil Kanwariya reported at (2021) 10 SCC 136***.

34. Referring to the prayers made in the writ petition learned DSG submits that there is no prayer for quashing of the decision for annulment and in absence of such prayer in the writ petition, the petitioner cannot challenge the final order of termination which is a resultant effect of the decision for annulment of previous punishment. In support, he has relied upon a decision of the Hon'ble Supreme Court ***In the matter of : Qamar Ghani Usmani Vs. State of Gujarat reported at (2023) 18 SCC 155***.

35. Learned DSG in support of his contention that when the petitioner has suppressed the material information at the time of appointment, the appointment is void *ab initio* and the termination of service is justified, has placed reliance upon a decision of a Co-ordinate Bench ***In the matter of : Ram Asheesh Yadav Vs. Union of India & Ors.*** **dated** ***March 27, 2024 rendered in WPA 4419 of 2019***.

36. Learned DSG submits that the termination order was issued against the petitioner by the authority not on the ground of any misconduct but it was a case of cancellation of an appointment for not disclosing the true and correct facts in the application. There is no requirement of holding any disciplinary proceeding. In support, he relied upon a decision of the

Hon'ble Supreme Court ***In the matter of : Yogeeta Chandra Vs. State of Uttar Pradesh & Anr. reported at 2023 SCC OnLine SC 1738***.

37. Learned DSG submits that any appointment to any public post and more so in uniform service has to be examined with a greater sense of responsibility. Petitioner has deliberately suppressed the material information. Therefore, the termination was justified. In support, he has relied upon a decision of the Hon'ble Supreme Court ***In the matter of : State of Uttar Pradesh & Ors. Vs. Ajay Kumar Malik*** **dated** ***April 20, 2026 rendered in Special Leave Petition (Civil) Nos.11145-11146 of 2025***. In the light of the above, learned DSG submits that the writ petition is devoid of any merit and should be dismissed.

38. **In reply,** Mr. Santosh Kumar Dhar, learned Advocate for the petitioner, submits that the principal challenge of the petitioner is that the decision for annulment was wholly without jurisdiction. He submits that, the judgments relied upon on behalf of the respondents do not cite the law that if the order of annulment is bad in law and is without jurisdiction whether such inherent defect could be cured relying upon the alleged conduct of the petitioner though the petitioner, had already served initial punishment for such alleged suppression inflicted by the jurisdictional authority. Therefore, all the judgments cited on behalf of the respondents would have no application in the fact and circumstance of this case.

39. Accordingly, petitioner prays for quashing of the order of annulment and termination.

40. He further submits that when the termination is under challenge and if the petitioner succeeds to such challenge, the decision for annulment of previous punishment would automatically fail.

Decision:

41. After considering the rival contentions of the parties and on perusal of the materials on record, it appears that, the facts stated hereinabove are largely admitted.

42. The specific case of the respondents is that the previous punishment dated ***March 5, 2013*** inflicted upon by the then authority was wholly illegal and perverse. The charge alleged against the petitioner, according to the respondents was grave in nature as at the time of appointment in a disciplined force, the petitioner while filling up the relevant form deliberately and willfully suppressed and gave a false declaration by not disclosing the material fact that a criminal proceeding is pending against him. The case of the respondents is that the subsequent alleged acquittal in the criminal proceeding would have no relevance as the petitioner had suppressed the material fact during his appointment, at the inception. It is true that the series of judgment cited on behalf of the respondents would show that when a member of disciplined force is charged with such an alleged offence of suppression, termination of employment is just and proper. Further submission on behalf of the respondents that as the initial appointment was void *ab initio,* the petitioner was not required to be carried through any disciplinary

proceedings and one line termination order is sufficient. The previous order of punishment dated ***March 5, 2012***, thus, was without jurisdiction and bad in law. The appropriate authority then annulled the previous punishment which was just and lawful, resulted into termination.

43. The specific case of the respondents that the power of annulment and the resultant termination order was passed by the jurisdictional authority in exercise of its power under **sub-Rule (d) to Rule 29 of CRPF Rules.** The respondents admit that the annulment and termination had happened in exercise of power under sub-Rule (d) to Rule 29 of CRPF Rules and not under any provision of the SSB Act or the Rules framed thereunder.

44. This Court is of the view that, in the prevailing circumstance, the power, authority and jurisdiction of the respondent authorities to pass the order for annulment and the resulting termination order call for a judicial scrutiny.

45. Rule 29 of CRPF Rules, for convenience, is quoted below :-

> ***"29. Revision .-(a) A member of the Force whose appeal has been rejected by a competent authority may prefer petition for revision to the next Superior Authority. The power of revision may be exercised only when in consequence of some material irregularity, there has been injustice or miscarriage of justice or fresh evidence is disclosed.***

(b) The procedure prescribed for appeals under sub-rules (c) to (g) of rule 28 shall apply mutatis mutandis to petitions for revision.

(c)[The next superior authority] while passing orders on a revision petition may at its discretion enhance punishment:

Provided that before enhancing the punishment the accused shall be given an opportunity to show cause why his punishment should not be enhanced:

[Provided further that an order enhancing the punishment shall, for the purpose of appeal, be treated as an original order except when the same has been passed by the Government in which case no further appeal shall lie, and an appeal against such an order shall lie-

(i) to the Inspector-General, if the same has been passed by the Deputy Inspector-General; and

[(ii) to the Special Director-General or Additional Director-General heading Zone, if the same has been passed by the Inspector-General; and]

[(iii)to the Director-General, if the same has been passed by the Special Director-General or Additional Director-General heading Zone; and]

[(iv)to the Central Government, if the same has been passed by the Director-General.]]

(d)[The Director-General [or [Special Director-General or the Additional Director-General heading the Zone]] or the Inspector-General] or the Deputy Inspector-General may call for the records of award of any punishment and confirm, enhance, modify or annual the same, or make or direct further investigation to be made before passing such orders:

Provided that in a case in which it is proposed to enhance punishment, the accused shall be given an opportunity to show cause either orally or in writing as to why his punishment should not be enhanced."

46. On reading of Rule 29 sub-Rule (a), it appears that a member of the force whose appeal has been rejected by a Competent Authority may prefer

revision to the next Superior Authority. The power of revision may be exercised only when in consequence of some material irregularity, there has been injustice or miscarriage of justice or fresh evidence is disclosed. This is the substantive provision conferring a right on a member of the force to prefer revision. The rest of Rule 29 are the procedures. *Member of the Force* has been defined under Rule 5 and 6 of CRPF Rules. Admittedly, after the order of annulment of the previous punishment and the order of termination having been passed, the petitioner had preferred the statutory appeals at the two stages as provided under the statute / Rule. The order in the first appeal upholding the decision of annulment and termination was passed on ***December 14, 2019*** at ***page 56*** to the writ petition and the order in the second appeal was passed on ***May 27, 2020*** at ***page 59*** to the writ petition. The admitted fact that the petitioner did not prefer revision from either of the said two appellate orders under Rule 29 of the CRPF Rules. Right to prefer revision is an exclusive right vested with the member of the force only, which, inter alia, includes the petitioner, under Rule 29 of CRPF Rules if the appeal of the member of the force has been rejected by a Competent Authority. Further reading of sub-Rule (a) shows that the power of revision may be exercised **only** when in consequence of some material irregularity, there has been **injustice** or **miscarriage of justice** or fresh evidence is disclosed.

47. The language and expressions used under sub-Rule (a) to Rule 29 of CRPF Rule is very clear that revision can only be preferred by a member of the force whose appeal has been rejected and the power of revision may be exercised if there has been, inter alia, injustice or miscarriage of justice. Therefore, in absence of any revision having been preferred by the petitioner, in the instant case, there was no scope for exercising revisional power by the Superior Authority. The rest of the provisions under the other sub-Rules are procedural provisions, whereas sub-Rule (a) to Rule 29 is the substantive provision for invoking the revisional jurisdiction under the CRPF Rules.

48. Sub-Rule (d) to Rule 29 of CRPF Rules, inter alia, states that the authorities mentioned therein may call for records of award of any punishment and confirm, enhance, modify or annul the same, or make or direct further investigation to be made before passing such orders. The proviso thereto provides that in the event of enhancement of punishment an opportunity of hearing would be granted to the delinquent.

49. On a meaningful and harmonious reading of entire Rule 29, this Court finds that only in the event a revision is preferred by a member of the force under sub-Rule (a) then the power under sub-Rule (d) could be exercised. Sub-Rule (d) to Rule 29 is neither an independent provision nor can be exercised *de hors* sub-Rule (a) to Rule 29. Therefore, a proceeding for revision has to be initiated by a member of the force in

compliance of sub-Rule (a) under Rule 29 as condition precedent, otherwise sub-Rule (d) cannot be invoked.

50. Right of revision under Rule 29 is exclusively conferred on a member of the force whose appeal has been rejected. Thus, if an appeal of a member of the force is rejected, it is the choice and prerogative of such member of the force whether to file a revision or not. In the facts of the instant case admittedly both the appeals were rejected but the petitioner did not prefer any revision under Rule 29 of CRPF Rule. This Court, therefore, holds that the exercise of power by the respondent authorities while annulling the previous punishment granted to the petitioner and to pass an order of termination under sub-Rule (d) to Rule 29 of CRPF Rules is without jurisdiction, wrongful, bad and not tenable in law.

51. CRPF Rules was promulgated in 1955 when Rule 29 was there. Sub-rule (d) was incorporated by way of an amendment in the year 1980. On a meaningful reading of sub-Rule (d) this Court finds that the procedure mentioned therein would only be adopted or exercised if a revision is filed by the member of the force and only then the authorities mentioned under sub-Rule (d) would be conferred with the jurisdiction and power, inter alia, to enhance or annul the previous punishment and not otherwise. This provision under sub-Rule (d) must and should be read in the light of the provisions laid down under sub-Rule (a) as well as in conjunction with and in aid of thereof. The second limb of sub-Rule (a) to Rule 29 provides that the power of revision may be exercised only

when in consequence of some material irregularity, there has been injustice or miscarriage of justice or fresh evidence is disclosed. This clearly means that filing of a revision by a member of the force is a mandate and condition precedent for exercising power by the authorities under sub-Rule (d) to Rule 29 of CRPF Rules.

52. The other submissions made on behalf of the respondents that since the petitioner has not challenged the order of annulment and has not prayed for the same in this writ petition or at any prior stage, the petitioner has waived his right to challenge the order of termination or the petitioner has acquiesced to the order of annulment is not tenable in law. When an action is bad on the face of it being dehors the law and wholly without jurisdiction, all those principles of equity, namely, acquiescence, waiver or estoppel would not operate against the law.

53. Inasmuch as, the primary object of this constitutional Court while exercising its plenary power under Article 226 of the Constitution of India is to ensure that an action which is patently illegal, perverse or without jurisdiction cannot and shall not prejudice or jeopardize the right of a citizen. Moreover, the right of employment is guaranteed under Article 19(1)(g) of the Constitution of India and right to live of a citizen with dignity is guaranteed under Article 21 of the Constitution of India. When the petitioner has challenged the order of termination which is a resulting effect of the order of annulment being otherwise without jurisdiction, illegal and bad in law, this constitutional Court has ample

authority to correct and rectify the action of the respondent authorities which had resulted de hors the law. This constitutional Court in exercise of its power under Article 226 of the Constitution of India is amply vested with the jurisdiction and authority to mould the relief. The power of moulding relief permits a Writ Court even to travel beyond the strict warding of the prayers made before it and to grant relief to the petitioner against a patent illegality or perverse exercise of power by the authority to subserve justice to the petitioner.

54. ***In the matter of : Ravi Kumar Ray (supra)*** this Court had occasion to deal with a writ petition, where it has observed as under:

> *"17. The principle of* ***moulding of relief*** *empowers this constitutional writ Court to adjust or reshape the remedies it can grant, even if the initial prayer is not fully suitable or has become inappropriate due to subsequent events. This doctrine allows this writ Court to tailor the relief to these specific circumstances of the case and ensure a just and equitable outcome. The core legal principle is to ensure that the final order reflects the actual means and equities of the situation, even if the original prayer was not perfectly align with the facts or has become outdated. In essence, the power of moulding of relief allows a writ Court to go beyond the strict warding of the initial prayers made before it and craft a remedy that best serves the interests of justice, fairness and specific facts of the case."*

55. In the facts and circumstances narrated and discussed above, this Court is of the opinion that the judgments cited on behalf of the parties are not required to be discussed, as none of those judgments were on interpretation of Rule 29 of CRPF Rules, which according to this Court, is

the sole and core issue needs to be adjudicated in the instant writ petition.

56. In view of the foregoing reasons and discussions, the **decision for annulment** and the order of annulment as decided by the respondents dated **August 20, 2019**, the ***order of termination dated October 25, 2019***, **Annexure P10 at Page 50 and 51** to the writ petition and the orders of Appellate Authorities dated ***December 24, 2019*** and ***July 28, 2020*** stand **set aside** and **quashed**. The order/communication for revising the previous punishment dated ***May 9, 2017***, the second show-cause dated ***August 20, 2019***, the third show-cause dated ***October 4, 2019*** also stand **set aside** and **quashed**.

57. Since the petitioner had already suffered the punishment inflicted upon him, the petitioner shall be treated as in valid employment since after the previous punishment dated ***March 5, 2013***, as if there has been no termination of service of the petitioner. His service shall be treated as a continuous one.

58. The period during which the petitioner did not attend his duty due to the said purported order of annulment followed by the said purported order of termination shall not be treated as unauthorized absence while calculating superannuation benefits. The said period of absence, if any, should be considered as in service and notional benefit shall be given to the petitioner, in accordance with law.

59. With the above observations, finding and directions, this writ petition ***WPA 340 of 2021*** stands ***allowed***, without any order as to costs.

60. Parties shall act on the basis of the server copy of this judgment duly downloaded from the official website of this Court.

(Aniruddha Roy, J.)