



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

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

WRIT PETITION No. 21696 of 2024

SANTOSH KUMAR AHIRWAR

Versus

UNION OF INDIA AND OTHERS

Appearance:

Shri Prahlad Choudhary – Senior Advocate with Ms. Divyani Choudhary – Advocate for petitioner.

Shri Shyam Yadav – Advocate for respondents No.2 to 5.

ORDER

(Reserved on 13.10.2025)

(Pronounced on: 29.10.2025)

By way of this petition, challenge is made to order Annexure P-1 passed by the Revisional Authority i.e. Principal Chief Security Commissioner, Railway Protection Force (RPF for Short), dated 14.07.2024 whereby the punishment of reversion for a period of two years to the lower rank awarded by the Disciplinary Authority and upheld by the Appellate Authority has been converted into compulsory retirement by enhancing the penalty in revision filed by the petitioner challenging the penalty order.



2. This Court on 15.07.2025 had raised a query that whether the revisional order would amount to original order in terms of second proviso to Clause 219.3 of the Railway Protection Force Rules, 1987 (for short RPF Rules) and would be appealable, the counsel for the petitioner today argued that the order of Revisional Authority is without jurisdiction and, therefore, this Court may hear the petitioner on the aspect of jurisdiction and he can be left to avail the remedy of appeal in case, only if this Court upholds the jurisdiction of the Principal Chief Security Commissioner to enhance the punishment in revision.

3. The petitioner was working as Assistant Sub Inspector in Railway Protection Force at Shajapur outpost and he was charged with three charges. The first charge related to the petitioner demanding an amount of Rs.30,000/- as illegal gratification from pantry car employees in a passenger train. Charge No.2 related to the petitioner assaulting some rag-picker woman in rail premises at Biaora, District Rajgarh (M.P.). Charge No.3 related to the petitioner demanding illegal gratification of Rs.20,000/- from two accused persons who were being produced before the Railway Court, Indore.

4. A Departmental enquiry ensued and in the Departmental enquiry, charge Nos.1 and 3 were not proved and only charge No.2 was proved. The Disciplinary Authority vide order Annexure P-3 dated 11.09.2023, taking



in view the conduct of petitioner awarded a penalty of reduction to lower rank for a period of two years and restricting pay and allowances for the suspension period to the subsistence allowance.

5. Against the said order, the petitioner filed appeal which was dismissed by the Appellate Authority vide order Annexure P-2 dated 30.01.2024 and being dissatisfied with rejection of appeal, the petitioner filed revision before the Principal Chief Security Commissioner, Jabalpur.

6. During the course of hearing of revision, the said authority was of the opinion that the petitioner has been leniently dealt with by the Disciplinary Authority and Appellate Authority and penalty needs to be enhanced. Therefore, a notice was given to the petitioner against enhancement of penalty on 21.06.2024 in response to which the petitioner replied to the said notice and further moved an application for withdrawal of the revision which was not permitted by the Revisional Authority as the notice of enhancement had already been given.

7. The Revisional Authority after considering the reply of petitioner and after giving the opportunity of personal hearing to the petitioner held that all the three charges are proved against the petitioner and, therefore, awarded a penalty of compulsory retirement.



8. This Court deals with the question of competence only because otherwise on facts and merits, there is remedy of appeal as per second proviso to Clause 2.1.3 of RPF Rules, 1987. As per said provision, where punishment is enhanced by the Revisional Authority, the same shall be treated to be an original order and an appeal shall lie against the order of Principal Chief Security Commissioner to the Director General and, therefore, factual aspects of the matter are not being touched by this Court because on merits, the order is appealable.

9. The counsel for the petitioner had argued that Clauses 219.3 and 219.4 are differently worded which gives different types of jurisdiction to the Appellate Authority and to the Revisional Authority for enhancement of penalty and, therefore, the Revisional Authority could only have enhanced the penalty in respect to charge No.2 but could not have held charge Nos.1 and 3 to be proved which was beyond the competence of Revisional Authority, specially when revision had been filed by the petitioner against the lighter penalty awarded to him by the Disciplinary Authority and as confirmed by the Appellate Authority.

10. *Per contra*, it was argued by the counsel for the respondents that the Revisional Authority was well within its right to enhance the penalty as per Clause 219.3.

11. Heard.



12. To appreciate the rival contentions, Clauses 219.3 and 219.4 deserve to be considered, which are as under:-

*“219.3 The superior authority while passing orders on the application for revision may at its discretion **enhance punishments**:*

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

*Provided further that subject to the provisions of sub-rule (2) of rule 212, an order enhancing the punishment shall be treated as an original order for the purpose of appeal, except when such an order has been passed by the Central Government in which case no further appeal shall lie. Where such order has been passed by the Principal*Chief Security Commissioner, appeal shall lie to the Director General and in the case of such order by the Director General, the appeal shall lie to the Central Government.*

219.4 Any authority superior to the authority making the original order may, on its own motion, or otherwise, call for the records of any inquiry and revise any order made under these rules and may:-

- (a) confirm, modify or set aside the order; or*
- (b) confirm, enhance, reduce or set aside the punishment imposed by the order, **or impose any punishment where no punishment has been imposed**; or*
- (c) remit the case to the authority which made the order or to any other authority directing such authority to make such further inquiry as it may consider proper in the circumstances of the case; or*
- (d) pass such other orders as it may deem fit:*

Provided that no action under this sub-rule shall be initiated after the expiry of one year from the date of the order aforesaid:

Provided further that no proceeding for revision shall be commenced until after-



- (i) *the expiry of the period for making an appeal specified in subsection (2) of section 9 ; or*
- (ii) *the disposal of the appeal, where any such appeal has been preferred :*

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

(Emphasis supplied)

13. The jurisdiction of Revisional Authority is only to enhance the penalty under Clause 219.3 and the substantive Clause 219.3 giving such jurisdiction to enhance the penalty, does not give any other right except stating that the Revisional Authority may at its discretion “enhance punishment”.

14. On the contrary, Clause 219.4 gives power to an authority superior to the original authority, and it gives a much wider jurisdiction which *interalia* vests jurisdiction to impose any punishment where no punishment has been imposed which is under Clause 219.4 (b).

15. Clause 219.4 would apply where any authority superior to the original authority on its own motion or on application of a party calls for the record of the enquiry and revises any order made under the Rules. The jurisdiction under Clause 219.4 is, therefore, jurisdiction given to any authority superior to the original authority which would mean that order of original authority can be supervised by any senior authority and while



exercising such supervisory powers, the said senior authority may impose any punishment where no punishment has been imposed.

16. On the contrary, specific restriction has been made in the power of the Revisional Authority under Clause 219.3 where the revision is at the instance of the aggrieved member of the Force. The discretion is only to enhance punishment and not to grant punishment where no punishment has been imposed whereas, *suo-moto* powers granted under Clause 219.4 to every superior authority are much wider which include imposing punishment where no punishment has been imposed. The notice given to the petitioner by the Revisional Authority can be said to be by exercising *suo-motu* powers under Clause 119.4.

17. These powers can also be exercised otherwise than *suo-motu*, but in the present case, there was no application by any party for such enhancement. However, whether exercised *suo-motu* or otherwise, such powers can be exercised only against the order of original authority. The plain language of Clause 219.4 makes it clear that such powers can be exercised only on the original order. This power under Clause 219.4 is not available when the appellate authority has also applied its mind and tested the original order, else, it would amount to vesting such powers over the order of Appellate Authority, which is not the intention of the framer of the Rule. Therefore, the powers under Clause 219.4 could not have been



exercised by the Revisional Authority, as the original order had been tested in appeal also.

18. In the considered opinion of this Court, by a conjoint reading of Clauses 219.3 and 219.4, though the Revisional Authority under Clause 219.3 has the power and competence to enhance punishment but it does not have any power and competence to award punishment where no punishment has been awarded by the Disciplinary Authority. That power is only available under Clause 219.4 which is an extra-ordinary power and exercisable by any authority superior to the original authority where no appeal has been filed, and is not available in cases where the appellate order is challenged by aggrieved member of Force in which case Clause 219.3 would apply.

19. In the present case, it is not as if that the Revisional Authority has simply enhanced punishment on charge No.2. It has also held charge Nos.1 and 3 to be proved and then enhanced the punishment. Therefore, it is not a simpliciter case of enhancement of punishment but it is a case of imposing punishment where no punishment was imposed i.e. in relation to charge Nos.1 and 3, which was beyond the competence and authority of the Revisional Authority when it was deciding the Revision against Appellate Order at the instance of aggrieved member of the Force. Therefore, the act of the Revisional Authority in holding charge Nos.1 and 3 to be proved,



which were held to be not proved by the Disciplinary Authority as well as by the Appellate Authority, and penalty was awarded only in relation to charge No.2, in the opinion of this Court, amounts to awarding punishment where no punishment was imposed. This could have been done by the authority when it was not a Revision at the instance of aggrieved member of the Force against an Appellate Order. However, once the revision was at the instance of aggrieved member of Force against an Appellate order, then Clause 219.3 would have applied where the scope of interference would have been to enhance the penalty only and not to enhance penalty where no penalty has been imposed.

20. Therefore, this Court is of considered opinion that the Revisional Authority in the Revision filed by the petitioner as aggrieved member of the Force, could not have held charge Nos.1 and 3 to be proved and impose punishment on these charges on which no punishment had been imposed by the Disciplinary Authority and by the Appellate Authority. Therefore, the Revisional order exercising powers under Clause 219.4 is clearly without jurisdiction.

21. Though this Court would have remanded the matter to the Revisional Authority to arrive at appropriate penalty for charge No.2 for which it was competent under clause 219.3, but the penalty for charge No.2 does not appear to be insufficient in any manner. Once the only remaining charge



would be charge No.2, there is no utility in remanding the matter to the Revisional Authority to arrive at appropriate penalty.

22. Therefore, the Revisional order Annexure P-1 is set aside. The petitioner is allowed to withdraw his Revision as per application Annexure P-7 and the order of Disciplinary Authority and Appellate Authority imposing penalty of reduction in rank for a period of 2 years, is upheld. The petitioner shall be allowed to rejoin the duties forthwith.

23. In the facts and circumstances of the case, the petitioner would not be entitled to back-wages till date of this order, but would only be entitled to pension already paid to him during the period of compulsory retirement. However, the period shall be counted to be a period spent in service for all other purposes like seniority, increment, length of service, etc.

24. In the above terms, the petition is **allowed**.

(VIVEK JAIN)
JUDGE