



**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU**

**Case No: LPASW No. 55/2016  
CM No. 8047/2025**

*Reserved on: 21.04.2026  
Pronounced on: 14.05.2026  
Uploaded on: 14.05.2026*

*Whether the operative part or full  
Judgment is pronounced : **Full***

Sh. Rajinder Singh,  
aged 32 years, (Ex. Constable  
No.913150549 of 102 Bn.,  
RAF/CRPF, S/O Sh. Tarsem  
Singh, R/O Gawar,  
P.O.Pargwal, Tehsil Akhnoor,  
District Jammu.

**...Petitioner(s)/Appellant(s)**

Through: Mr. Navneet Dubey, Advocate

v/s

1. Home Secretary to Govt. of India, Ministry of Home Affairs, New Delhi.
2. The Commandant 102 Bn. RAF/CRPF, Bhuvneshwar-11, Orisa.
3. Mr. Avtar Singh, Asstt. Commandant, (For Commandant 102 Bn. RAF/CRPF), Bhuvneshwar-11, Orisa.
4. Dy. Inspector General of Police, RAF/CRPF, New Delhi.
5. Inspector General of Police, Eastern Block No.10, R.K.Puram, New Delhi-66.



Through: Mr. Vishal Sharma, Sr. Advocate (DSGI) with  
M/s Karan Sharma & Eishaan Dadhichi, CGSC

**CORAM: HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.**

**JUDGMENT**

**PER OSWAL-J**

**CM No. 8047/2025**

1. This is an application seeking restoration of LPASW No.55/2016 to its original number, which came to be dismissed for non-prosecution on 27.11.2025.
2. For the reasons stated in the application, coupled with no objection from the other side, the application is allowed. Consequently, LPASW No. 55/2016 is restored to its original number. The application stands **disposed of**.
3. Main appeal is re-admitted for hearing.

**LPASW No. 55/2016**

1. This *intra* court appeal is directed against the judgment dated 31.01.2014 rendered by the learned writ Court in SWP No. 349/2000, titled "*Rajinder Singh Vs. Home Secy. to Govt. of India and Others*", whereby the writ petition preferred by the appellant challenging his dismissal from service has been dismissed.
2. The judgment dated 31.01.2014 has been impugned by the appellant on the following grounds :
  - (a) That under Section 11(1) of the CRPF Act, it is not open to the Commandant to impose the major punishment of dismissal from service as the said provision contemplates only the imposition of minor punishments;



- (b) That the order of dismissal from the service of the appellant has been passed by the incompetent authority;
- (c) That the learned single Judge has failed to appreciate that no Prosecuting/ Presenting officer was appointed and the Enquiry Officer himself acted as Prosecuting officer, as such, the judgment is not sustainable in the eyes of law.
- (d) That the learned single Judge has also failed to appreciate that the punishment of dismissal from service imposed upon the appellant is disproportionate to the alleged misconduct, especially when another Constable, Rajinder Singh of 104 Bn, RAF, CRPF, who was involved in a similar act of misconduct, was let off with only a warning.

6. Notwithstanding the grounds of challenge set out in the memorandum of appeal, learned counsel for the appellant has confined the challenge to the following limited grounds: first, that the learned Writ Court failed to consider that no Presenting Officer was appointed during the enquiry, resulting in the Enquiry Officer acting as the Prosecutor. Second, it is contended that a co-accused, Constable No. 90099652 Rajinder Singh, who was allegedly involved in the same incident, was merely issued a warning. In this regard, it is argued that pursuant to Rule 27(d) of the Central Reserve Police Force Rules, 1955, a joint enquiry should have been conducted. Finally, counsel urges that the appellant was denied the opportunity to cross-examine the witnesses.

7. Mr. Vishal Sharma, learned DSGI, submitted that in the instant case, due opportunity of cross-examination was afforded to the appellant, and he, in fact, cross-examined witnesses during enquiry. He further submitted that a joint enquiry was not required, as the allegations against the appellant were distinct from those involving his colleague. He has relied upon the judgment dated 22.08.2025 passed by this Court in LPA No. 189/2023 titled "*Gautam Ray Vs. Union of India*



*and others*”, to contend that the non-appointment of a Presenting Officer does not, *ipso facto*, cause prejudice to the appellant.

8. Heard learned counsel appearing for the parties and perused the record.
9. Before evaluating the competing arguments, we briefly set out the facts necessary to dispose of this appeal.
10. The appellant, who was serving as Constable in CRPF, went to the Family Quarter of SI/GD Jagdish Singh on 31.05.1997 at about 2130 hours along with another Constable No. 90099652 Rajinder Singh. After having consumed liquor, he misbehaved with SI/GD Jagdish Singh at his quarter in Group Centre Campus, Bhuvneshwar, and on 01.06.1997, he was found absent from night duty as a Guard Marker and when day SO/SI/GD O.S. George, and the day NCO HC. Jagdish Parsad and RP NK M.N.Paniker went to the Barrack in search of the appellant, he was found consuming liquor in the living Barrack thereby violating the Camp standing orders. The appellant and his colleague assaulted them. Accordingly, the appellant was placed under suspension vide order dated 03.06.1997. Subsequently a departmental enquiry was ordered against the appellant vide order dated 04.06.1997 and Shri Bhagwant Singh, Assistant Commandant was appointed as Enquiry Officer to enquire into the allegations against the appellant. The Enquiry Officer, after the conclusion of the enquiry against the appellant, submitted his report to the Commandant 102 Bn RAF, CRPF, who vide its order dated 17.11.1997 imposed the penalty of “Dismissal from Service” with effect 17.11.1997 upon the appellant and period of suspension w.e.f. 01.06.1997 to 17.11.1997



was directed to be treated “as such” without any additional emoluments. The appellant assailed the order of his dismissal through the medium of appeal before the appellate authority, i.e. Dy. Inspector General of Police, RAF, CRPF, New Delhi, who vide its order dated 09.03.1998 rejected the same. The appellant thereafter filed a revision petition that was also dismissed vide order dated 14.09.98.

9. **The first contention of the appellant is that the enquiry stands vitiated, as no Presenting Officer was appointed and the Enquiry Officer himself acted as the Presenting Officer.** In order to appreciate this contention of the appellant, it is proper to take note of the judgment of Hon’ble Supreme Court of India in the case of “**Union of India vs. Ram Lakhon Sharma**”, 2018(7) SCC 670, wherein the Hon’ble Supreme Court quoted with approval the principles culled out by the Division Bench of Madhya Pradesh High Court while considering the issue of vitiation of enquiry when the Enquiry Officer starts himself acting as Prosecutor. The relevant para is extracted as under:

33. The Division Bench after elaborately considering the issue summarised the principles in para 16 which is to the following effect:

“16. We may summarise the principles thus:

(i) The Enquiry Officer, who is in the position of a Judge shall not act as a Presenting Officer, who is in the position of a prosecutor.

**(ii) It is not necessary for the disciplinary authority to appoint a Presenting Officer in each and every enquiry. Non-appointment of a Presenting Officer, by itself will not vitiate the enquiry.**

**(iii) The Enquiry Officer, with a view to arrive at the truth or to obtain clarifications, can put questions to the prosecution witnesses as also the defence witnesses. In the absence of a Presenting Officer, if the Enquiry Officer puts any questions to the prosecution witnesses to elicit the facts, he should thereafter permit the delinquent employee to cross-examine such witnesses on those clarifications.**

(iv) If the Enquiry Officer conducts a regular examination-in-chief by leading the prosecution witnesses through the prosecution case,



or puts leading questions to the departmental witnesses pregnant with answers, or cross-examines the defence witnesses or puts suggestive questions to establish the prosecution case employee, the Enquiry Officer acts as prosecutor thereby vitiating the enquiry.

(v) As absence of a Presenting Officer by itself will not vitiate the enquiry and it is recognised that the Enquiry Officer can put questions to any or all witnesses to elicit the truth, the question whether an Enquiry Officer acted as a Presenting Officer, will have to be decided with reference to the manner in which the evidence is let in and recorded in the enquiry.

Whether an Enquiry Officer has merely acted only as an Enquiry Officer or has also acted as a Presenting Officer depends on the facts of each case. To avoid any allegations of bias and running the risk of enquiry being declared as illegal and vitiated, the present trend appears to be to invariably appoint Presenting Officers, except in simple cases. Be that as it may.”

**34. We fully endorse the principles as enumerated above, however, the principles have to be carefully applied in fact situation of a particular case. There is no requirement of appointment of Presenting Officer in each and every case, whether statutory rules enable the authorities to make an appointment or are silent.** When the statutory rules are silent with regard to the applicability of any facet of principles of natural justice the applicability of principles of natural justice which are not specifically excluded in the statutory scheme are not prohibited. When there is no express exclusion of particular principle of natural justice, the said principle shall be applicable in a given case to advance the cause of justice. -----

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**35. Thus, the question as to whether the Enquiry Officer who is supposed to act independently in an inquiry has acted as prosecutor or not is a question of fact which has to be decided on the facts and proceedings of a particular case.** In the present case we have noticed that the High Court had summoned the entire inquiry proceedings and after perusing the proceedings the High Court came to the conclusion that the Enquiry Officer himself led the examination-in-chief of the prosecution witness by putting questions. The High Court further held that the Enquiry Officer acted himself as prosecutor and Judge in the said disciplinary enquiry. The above conclusion of the High Court has already been noticed from paras 9 and 10 of the judgment of the High Court giving rise to Civil Appeal No. 2608 of 2012. (emphasis added)

**11.** Thus, the failure to appoint a Presenting Officer does not, *ipso facto*, vitiate the proceedings. Such a challenge can only succeed if the record establishes that the Enquiry Officer stepped into the shoes of the Prosecutor, thereby compromising the requirement of an impartial enquiry. After examining the record of enquiry, we find that the Enquiry Officer recorded the statements of witnesses and even afforded the opportunity of cross-examination to the appellant. PW-1 O.S.George, PW-2, Jagdish Singh, PW-3 Jagdish Parsad, PW-4 Shikhabat and PW-5 M.N.Panikar were cross-examined by the appellant. After examining the record, we hardly find that the Enquiry Officer has himself acted as Prosecuting Officer. In view of above, we



do not find any merit in this contention raised by the appellant, and the same is accordingly rejected.

**12. It was next contended by the appellant that joint enquiry was required to be conducted against the appellant as well as his colleague Constable Rajendra Singh.** In order to appreciate this contention, it would be apt to extract Rule 27(d) of the CRPF Rules of 1955, which is as under:-

27(d) (1) Where two or more members of the Force, including those on deputation to the Force are concerned in any case, the Inspector-General [or any other authority competent to impose the penalty of dismissal from service on all such members of the Force] may make an order directing that disciplinary action against all of them may be taken in a common proceeding.

**Note** .-Where in such a proceeding, the misconduct of a deputationist is to be dealt with, the consent of the disciplinary authority competent to impose the penalty of dismissal shall be obtained for the taking of such a disciplinary action.

(2) Such order shall specify—

- (i) the authority which may function as the disciplinary for such a common proceeding;
- (ii) the penalties specified in the table of sub-rule (a) above which such disciplinary authority shall be competent to impose;
- (iii) whether such disciplinary authority shall hold the Departmental enquiry himself or may designate any other enquiry officer for that purpose; and
- (iv) that the enquiry shall be held in accordance with the provisions of sub-rule (a) and sub-rule (c) .

**13. Concurring with the findings of the learned Writ Court, we are of the considered view that the said Rule is merely a directory provision. It empowers the disciplinary authority to conduct common proceedings against two or more members of the Force but does not confer a vested right upon the appellant. Consequently, the failure to hold a joint enquiry does not, in and of itself, vitiate the departmental proceedings. We also concur with the learned Writ Court's finding**



that the charges against the appellant's colleague were distinct; he was merely alleged to have accompanied the appellant to the residence of SI (GD) Jagdish Singh and did not face any charges for unauthorized absence. Evidently, the nature and gravity of the allegations against the appellant were distinct and significantly more serious than those leveled against his colleague, Constable Rajinder Singh. Thus, the contention of the appellant that a joint enquiry was required to be conducted in terms of Rule 27(d) of the CRPF Rules, 1955, is found to be devoid of merit.

**14. The last contention that no opportunity of cross-examination was afforded to the appellant** has already been considered and negated, in light of the categorical finding that the appellant did cross-examine the witnesses.

**15. We have carefully examined the judgment rendered by the learned Writ Court and find no reason to interfere with the same. Accordingly, the present appeal, being devoid of merit, is hereby dismissed.**

**16. Let the record be returned to the learned counsel for the respondents.**

**(Rajesh Oswal)**  
Judge

**(Arun Palli)**  
Chief Justice

**Jammu**  
14.05.2026  
Madan Verma-Secy

Whether order is speaking? **Yes**  
Whether order is reportable? **Yes**