



**IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SHRI JUSTICE ANAND SINGH BAHRAWAT
WRIT PETITION No. 19947 of 2026**

KANHAILAL SAMADHIYA
Versus
STATE OF MADHYA PRADESH AND OTHERS

Appearance:

Shri N.K. Gupta - Advocate for the petitioner.

Shri Prabhat Pateriya - Govt. Advocate for the respondents/State.

Reserved on : 24-09-2026

Pronounced on : 29-09-2026

ORDER

This petition, under Article 226 of Constitution of India, has been filed seeking following relief (s):-

“In the light of foregoing facts and circumstances it is prayed that a writ in the nature of certiorari and mandamus be issued setting aside the orders annexure P/1 and P/2 and restraining the respondent STF from departmentally proceeding against the petitioner.

Any other relief which this Hon'ble Court deem fit in the facts and circumstances of the instant case.”

2. Learned counsel for the petitioner submits that the petitioner was appointed as Platoon Commander in SAF on 06.05.2013 and his post was changed to SI, SAF in the year 2016. Thereafter, by order dated 21.08.2019 issued by the DGP, the petitioner was sent on deputation



from SAF to STF. However, he was repatriated to SAF by order dated 13.02.2020.

3. It is submitted by learned counsel for the petitioner that after about five years of his repatriation, PHQ STF issued the impugned charge-sheet dated 02.05.2025 proposing departmental enquiry against the petitioner in respect of alleged interference in the investigation of STF after his repatriation to SAF. The petitioner submitted a representation dated 11.07.2025 before SAF requesting that the departmental enquiry be transferred to SAF, as STF had no jurisdiction to proceed against him after his repatriation to his parent department.

4. Learned counsel for the petitioner further submits that in a similar case of Shri Manna Singh, who was also repatriated from STF to SAF, the charge-sheet issued by STF after his repatriation was recalled by order dated 02.07.2025 on the ground that he was no longer posted in STF and had been repatriated to his parent department. However, in the present case, instead of recalling the charge-sheet, STF appointed an Enquiry Officer by order dated 01.06.2026 to proceed with the departmental enquiry pursuant to the charge-sheet dated 02.05.2025.

5. It is further submitted by learned counsel for the petitioner that the Coordinate Bench of this Court in ***W.P. No.307/2016 (Santosh Singh Yadav Vs. State of M.P. & Ors.)***, vide order dated 26.07.2023, has held that after repatriation, the borrowing department cannot proceed departmentally against the employee, as the master-servant relationship comes to an end.



6. Learned counsel for the petitioner submits that the impugned charge-sheet dated 02.05.2025 and order dated 01.06.2026 are without jurisdiction and contrary to the aforesaid judgment. It is also by learned counsel for the petitioner submitted that STF has adopted a different approach in the case of the petitioner, despite having recalled the charge-sheet in the similar case of Shri Manna Singh, which is arbitrary and illegal. It is further submitted by learned counsel for the petitioner that the charge-sheet and appointment of the Enquiry Officer were made after more than one year, despite the petitioner having already submitted a representation regarding the lack of jurisdiction of STF after his repatriation. The respondents have thus acted contrary to the applicable rules and the law laid down by this Court.

7. *Per contra*, learned counsel for the respondents submits that the present writ petition is misconceived, premature and liable to be dismissed. The petitioner was appointed as Platoon Commander in SAF on 06.05.2013 and his post was subsequently changed to Sub-Inspector (SAF). The petitioner was sent to STF by order dated 21.08.2019 and thereafter was directed to work in his original posting unit by order dated 13.02.2020.

8. It is submitted by learned counsel for the respondents that the petitioner has wrongly treated his posting in STF as deputation. STF is not a separate department or statutory body but is a part of the Police Department under the administrative control of the DGP and the Home Department. SAF, STF, Civil Police, Crime Branch, Cyber Cell, ATS and other police units are different wings of the same Police



Department. Therefore, the petitioner has always remained an employee of the Police Department and there was no change in his employer or master-servant relationship.

9. Learned counsel for the respondents submits that the use of the word “deputation” in the order dated 21.08.2019 is only a matter of nomenclature. The subsequent order dated 05.09.2019 also shows that the petitioner was posted in STF, and the order dated 13.02.2020 directed him to work in his original posting unit. Thus, the petitioner's posting from SAF to STF was only an internal posting within the same department and not a deputation in the legal sense. His service conditions also continued to be governed by the same rules.

10. It is further submitted by learned counsel for the respondents that the charge-sheet dated 02.05.2025 was issued by the competent authority after considering the material available on record. The allegations relate to serious misconduct concerning the discipline, integrity and functioning of the Police Department. The charge-sheet is only initiation of disciplinary proceedings and does not amount to recording any finding of guilt. The order dated 01.06.2026 appointing the Enquiry Officer is only a consequential procedural step.

11. Learned counsel for the respondents further submits that the petitioner has an adequate opportunity to submit his reply to the charge-sheet, participate in the enquiry, produce evidence, cross-examine witnesses and raise all factual and legal objections, including the objection regarding jurisdiction. The petitioner has approached this Court without availing the said remedy. The correctness of the



allegations and sufficiency of evidence are matters to be examined by the disciplinary authority and Enquiry Officer and cannot be adjudicated at this stage under Article 226 of the Constitution.

12. Learned counsel for the respondents placed reliance upon the judgments of the Supreme Court in *Special Director & Another Vs. Mohd. Ghulam Ghouse & Another, (2004) 3 SCC 440, Union of India & Another Vs. Kunisetty Satyanarayana, (2006) 12 SCC 28 and Secretary, Ministry of Defence & Others Vs. Prabhash Chandra Mirdha, (2012) 11 SCC 565*, wherein it has been held that ordinarily a writ petition against a charge-sheet is not maintainable unless exceptional circumstances such as patent lack of jurisdiction or *mala fide* are established.

13. It is further submitted by learned counsel for the respondents that the petitioner has not pleaded any specific *mala fide* against any officer and has also not shown violation of natural justice. The charge-sheet itself provides an opportunity to the petitioner to defend himself. The petitioner has also failed to explain the delay in challenging the charge-sheet dated 02.05.2025. The subsequent order dated 01.06.2026 appointing the Enquiry Officer is only a consequential order and does not give rise to a fresh cause of action. The petition is therefore also liable to be dismissed on the ground of delay and laches.

14. As regards the case of Shri Manna Singh, learned counsel for the respondents submits that the said case was decided on its own facts and cannot confer any right upon the petitioner. Similarly, the judgment in *W.P. No.307/2016 (Santosh Singh Yadav Vs. State of M.P. & Ors.)*,



relied upon by the petitioner, is distinguishable on facts and has no application to the present case, as the petitioner has remained an employee of the same Police Department throughout.

15. It is, therefore, submitted learned counsel for the respondents that the impugned charge-sheet dated 02.05.2025 and order dated 01.06.2026 have been issued in accordance with the applicable rules and by the competent authority. The writ petition raises disputed questions relating to the alleged misconduct and jurisdiction, which can be considered in the departmental enquiry. The petitioner has failed to establish any exceptional circumstance warranting interference under Article 226 of the Constitution. Hence, the writ petition deserves to be dismissed.

16. Learned counsel for the petitioner, in rejoinder, submits that the present petition challenges the charge-sheet dated 02.05.2025 and the order dated 01.06.2026 appointing the Enquiry Officer, both issued by STF after the petitioner had already been repatriated to his parent unit, SAF. This Court, vide order dated 12.06.2026, has stayed the effect and operation of both the impugned orders.

17. It is submitted by learned counsel for the petitioner that the respondents have taken the stand that SAF and STF are units of the same Police Department and, therefore, the petitioner's movement from STF to SAF was only a posting and not repatriation. However, the said stand is contrary to the respondents' own action in the case of *Shri Manna Singh (supra)*, who was involved in the same incident. Although a charge-sheet was issued to Shri Manna Singh by STF, the same was recalled vide order dated 02.07.2025 on the ground that he



had already been repatriated to SAF and it was for SAF to decide whether any charge-sheet was to be issued against him.

18. Learned counsel for the petitioner further submits that the respondents are therefore adopting a different yardstick in the case of the petitioner, despite the petitioner being similarly situated and involved in the same incident. It is further submitted by learned counsel for the petitioner that the Police Department's circulars, including GOP No.129/2008 dated 27.10.2008 and GOP No.144/2018 dated 23.06.2018, clearly recognize deputation and repatriation between different police units and provide that, in case of misconduct by an officer on deputation, he may be repatriated to his parent unit, which is competent to take action against him. It is, therefore, submitted that the stand taken by the respondents is contrary to their own action in the case of Shri Manna Singh as well as the aforesaid departmental circulars.

19. No other ground is pressed by the learned counsel for the parties.

20. Heard learned counsel for the parties and perused the record.

21. The order of DGP dated 21.08.2019, by which the petitioner was sent on deputation from SAF to STF reads as under for ready reference and convenience.

पुलिस मुख्यालय, मध्यप्रदेश, भोपाल

//आदेश//

पुलिस मुख्यालय, भोपाल के आदेश क्र-पुम/3/कार्मिक/4/2922/19, दिनांक 10/07/19 के माध्यम से गठित समिति की अनुशंसा के आधार पर तथा पुलिस मुख्यालय, भोपाल के परिपत्र क्र-पुम/3/कार्मिक/4/1004/13, दिनांक 01/03/13 में उल्लेखित निर्देशानुसार निम्नलिखित अधिकारियों/कर्मचारियों को प्रतिनियुक्ति पर "एसटीएफ" में पदस्थ किया जाता है:-



संक्र०	पदनाम	संवर्ग	नाम अधिकारी / कर्मचारी	वर्तमान पदस्थापना
1	निरीक्षक	DEF	सुभाष दरश्यामकर	जिला हरदा
2	निरीक्षक	SAF	रत्नेश कुमार सिंह	ईओडब्ल्यू, भोपाल
3	उपनिरीक्षक	DEF	श्याम किशोर त्रिपाठी,	आरएपीटीसी, इंदौर
4	उपनिरीक्षक	DEF	कंचन सिंह राजपूत	जिला, भोपाल
5	उपनिरीक्षक	DEF	हरिसिंह सनोडिया	जिला इंदौर
6	उपनिरीक्षक	SAF	पंकज कुमार पाण्डेय,	7वीं वाहिनी, विसबल, भोपाल
7	उपनिरीक्षक	SAF	कन्हैया लाल समाधिया	10वीं वाहिनी, विसबल, सागर
8	प्रआर 701	SAF	राजन पिल्लई	6वीं वाहिनी, विसबल, जबलपुर
9	प्रआर 109	DEF	श्रीकृष्णा बोर्डे	पीटीसी, इंदौर
10	आर 1306	DEF	राजपाल सिंह राठौर	जिला उज्जैन
11	आर 2543	DEF	शैलेन्द्र पटवा	जिला जबलपुर
12	आर 212	SAF	मनीष राठौर	32वीं वाहिनी, विसबल, उज्जैन
13	आर 233	DEF	उदय सिंह गुर्जर	पीटीएस तिघरा ग्वालियर

हस्ता / —
 पुलिस महानिदेशक
 मध्यप्रदेश, भोपाल
 21/08/19

22. The petitioner was repatriated from STF to SAF by order dated 13.02.2020 which reads as under;

स्पेशल टॉस्क फोर्स, मध्यप्रदेश

पुलिस मुख्यालय के पास, जहाँगीराबाद, भोपाल (गध्यप्रदेश) 462008 फोन नम्बर :

0755-2443305, ईमेल : aig-stf@mppolice.gov.in



:: आदेश ::

श्री कन्हैयालाल समाधिया उपनिरीक्षक (विसबल), एसटीएफ म.प्र. भोपाल को प्रशासनिक आधार पर तत्काल प्रभाव से उनकी **मूल इकाई** 10वीं वाहिनी विसबल, सागर के लिए आज दिनांक 13/02/2020 को कार्यमुक्त किया जाता है।

आलोच्य वर्ष 2020 में निम्नानुसार अवकाश की पात्रता है :-
विशेष अवकाश-15 दिवस, आकस्मिक अवकाश-16 दिवस

हस्ता० / -
(डॉ० अशोक अवस्थी)
अतिरिक्त पुलिस महानिदेशक,
एसटीएफ, म०प्र०, भोपाल

कमांक-पु०अ०/मुख्या/एसटीएफ/स्था/1-354/2020, भोपाल दिनांक 13/02/2020

23. The question for consideration before this Court is as to whether the procedure contemplated under Rule 20 of the Rules 1966 is applicable only when the employee continues on deputation or can be invoked even after the period of deputation is over or the employee is repatriated back to his Parent department. The aforesaid question is no more *res integra*. Similar issue was before the Division Bench of this Court in the case of **B.L. Satyarthi vs. State of M.P.** reported in **2015(1) MPLJ** wherein in paragraph No.12, it has been held as under:

“12. Rule 20 of Madhya Pradesh Civil Services (CCA) Rules, 1966 as applicable to the State of Madhya Pradesh and reproduced herein above gives power to the borrowing department to take disciplinary action against a Government servant who is on deputation and the powers to the appointing authority and the disciplinary



authority are conferred on the borrowing department. The Rule contemplates that the borrowing department shall have the powers of the Appointing Authority for the purpose of placing the government servant under suspension and for taking disciplinary action against him but the proviso contemplates that the action taken has to be forthwith communicated to the parent Department. When power is given to any authority to suspend a Government servant or initiate disciplinary action against him an assumption has to be drawn that the power can be exercised so long as the relationship of master and servant, employer and employee subsists or the contract of employment is in existence. Once the relationship of master and servant or employer and employee or the contract of service itself comes to an end, the question would be as to how disciplinary action or power to suspend can be exercised by an authority with whom the contract of employment of the employee concerned is no more in existence. Rule 20 therefore, has to be interpreted by holding that the power conferred under Rule 20 to the



borrowing department or authority to suspend a Government servant or to take a disciplinary action against him can be exercised only if the relationship of master and servant or the contract of employment between the borrowing department and the deputation employee subsists. When an employee who is a government servant and holds a lien in a Government department is sent on deputation to Foreign Department or a Corporation, then during the period of deputation a temporary contract of service is brought into force between the borrowing department and the employee concerned and so long as its contract of employment subsists the borrowing department can invoke the provision of Rule 20 but once the employee is repatriated back to the foreign department then the contract of employment temporarily created during the period of deputation ceases and if that be the position, then the borrowing department does not have any authority to take action against the employee concerned. Apart from the above a perusal of Rule 20(2) and the proviso to Rule 20(2)(i) and (iii) also clarifies the position. After



the departmental proceeding initiated by the Borrowing Department is completed and the finding of inquiry is recorded, in the light of the finding if the Borrowing Department wants to impose any of the penalties specified in clause (i) to (iv) of Rule 10, then after consultation with the lending department the punishment can be imposed. However, the proviso to Rule 20(2)(i) indicates that if there is any difference of opinion between the Borrowing Department and lending department that the service of the employee has to be replaced at the disposal of the lending department. This clearly shows that action under these Rules can be taken only when the employee is on deputation not otherwise as the stipulation in proviso to Rule 20(2)(i) speaks about replacement of the employee to the lending department. Similarly in Rule 20(2)(i) and proviso thereto thereto also it is clearly provided that if the punishment to be imposed is a major punishment as provided in Rule 10 (v) to (ix), then the employee has to be replaced to the lending department and it is only the lending department which can take action. The stipulation in this part of the rule for



replacement of the employee to the parent department clearly indicates the intention of the rule maker. In case Rule 20 was applicable to a employee who is already repatriated to the parent (lending) department then the provision for replacement of the employee to the lending department as contained in both the provisos to Rule 20 (2) (i) (iii) would not provide for replace the service of the government employee to the lending department. This in our considered view would be the interpretation which can be given to the powers that may be exercised by the borrowing department under Rule 20.”

24. From the above decision, it is very well clear that Rule 20 of the Rules 1966, gives power to the Borrowing Department to take **disciplinary action against a Government servant who is on deputation** and the powers to the appointing authority and the disciplinary authority are conferred on the borrowing department **but the said powers can be exercised by the borrowing department so long as the relationship of master and servant. Once the relationship of master and servant or employer and employee comes to an end the Borrowing Department has no authority to take action against the employee concerned.**

25. The contention of learned counsel for the respondents that STF is not a separate department or statutory body, but is only a part of the



Police Department under the administrative control of the DGP and the Home Department, cannot be accepted. The petitioner has relied upon GOP No.129/08, which provides for deputation to specialised police units. Significantly, the said GOP specifically provides for sending personnel on deputation to the Anti-Terrorism Squad (ATS). This shows that, for the purpose of deputation, such specialised units are treated as separate units to which personnel can be deputed. Merely because the ATS or STF functions under the overall administrative control of the Police Department, it cannot be said that there can be no deputation to such units. The relevant part of said GOP is reads as under for ready reference and convenience;

POLICE HEAD QUARTER, MADHYA PRADESH, BHOPAL

GOP NO. 129/08

ATS Deputation/Induction Rules 2008

The Madhya Pradesh Government has sanctioned the creation of an Anti Terrorist Squad with a total sanction of 188 personnel. The members of this Squad shall be given Extra Pay to the tune of 60% of the member's basic salary. The ATS has been mandated to conduct Secret Enquiries and Surveillance of those suspected to be a terrorist or have terrorist links. It is therefore, necessary to create rules for the induction of the members to the ATS. The rules formulated are enumerated as below-

1. The ATS shall be wholly a force that shall be filled by way of **Deputation** from the existing Madhya Pradesh Police, Central Police Organizations, Armed Forces only.

26. In the present case, it is an admitted fact that the petitioner was sent on deputation vide order dated **21.08.2019 from SAF to STF** and he was repatriated to SAF by order dated 13.02.2020 and the charge-



sheet was issued to the petitioner on 02.05.2025 after about five years of his repatriation but the said powers can be exercised by the borrowing department so long as the relationship of master and servant. Once the relationship of master and servant or employer and employee comes to an end the Borrowing Department has no authority to take action against the employee concerned. Since this Court had come to conclusion that such types of exercise could not have been done by the Borrowing Department, the very issuance of charge-sheet to the petitioner was illegal. Consequently, the entire process thereof conducted by the borrowing department cannot be sustained.

27. As the very inquiry has been held to be bad the impugned charge-sheet dated 02.05.2025 (Annexure P/1) and the order appointing Enquiry Officer dated 01.06.2026 (Annexure P/2) issued by STF cannot be sustained. Hence, both the orders are hereby **set aside**. Accordingly, the petition is **allowed** to the extent above.

28. However, liberty is granted to the respondents to take appropriate action as per law, if so advised.

29. With the aforesaid observation and direction, the petition is disposed of finally.

(ANAND SINGH BAHRAWAT)
JUDGE

Vpn/-