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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C)No.3623/2012 and CM No.7606/2012

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Date of decision: 17th July, 2012

RAMESH CHANDER Petitioner
Through : Mr. Anuj Aggarwal and
Mr. Gaurav Khanna, Advs.
versus

UNION OF INDIA AND ORS Respondents
Through : Mr. Himanshu Bajaj, Adv.

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MR. JUSTICE J.R. MIDHA

JUDGMENT (ORAL)

1. The petitioner assails the inquiry report dated 24th April, 2011; the order of disciplinary authority dated 14th June, 2011 accepting the inquiry report and the order dated 3rd September, 2011 dismissing the statutory appeal preferred by him.
2. The facts giving rise to the present petition briefly state that the petitioner was recruited as Constable (GD) in CISF on 21st January, 1994. The instant case relates to an incident which occurred on 24th November, 2010 when the petitioner was travelling in a public bus from Panipat to IOCL Township. A lady (hereinafter referred as 'A') made a complaint to the Deputy Commandant, CISF Unit, IOC Panipat against the petitioner to the effect that he had misbehaved with her and touched her inappropriately.

Needless to say, the petitioner disputed the same.

3. The complaint resulted in issuance of the chargesheet dated 7th January, 2011 under Rule 36 of the CISF Rules, 2008 wherein the following two charges were framed against the petitioner:-

“CHARGE NO. – I

“Force No. 944480072 Constable Ramesh Chander CISF Unit R.G.T.P.P. Khedar had come to be assembled in the Company No. 149 in CISF Unit IOCL Panipat on 21.11.2010 for the Panchayat Elections being held in the State of Jharkhand. On 24.11.2010 at around 11.45 AM, he, in the bus bearing No. HR 67 – 5892 which travels from IOC Refinery Panipat to Township, mistreated Smt. Brajesh Sharma w/o Shri K.B. Sharma who is posted at IOCL Plant. Being a member of Armed Force, having committed this kind of act of mistreatment with a woman, Force No. 944480072 Constable Ramesh Chander has shown indiscipline and misconduct and therefore, tarnished the image of the Force”. Hence this Charge.

Sd/-
07/01/11
Group Commandant

CHARGE NO. – II

“From the perusal of the service record of the Constable Ramesh Chander, Force No. 944480072 deployed at CISF Unit R.G.T.P.P. Khedar, it is clear that in past also, during his service, he has been penalized with 06 minor punishments by different disciplinary officers. Out of these, one punishment has been for keeping a bad eye towards the women. Such bad service record shows gross indiscipline, negligence of duty, misconduct and a tendency of not improving”. Hence this Charge.

Sd/-
07/01/11
Group Commandant”

4. The petitioner was given an opportunity to respond to the same. The explanation of the petitioner was found unsatisfactory and by an order passed on 25th November, 2011, the inquiry officer was appointed to undertake disciplinary proceedings against the petitioner. The petitioner received the charge-sheet, memorandum and articles of charges, documents and list of witnesses. During the course of the inquiry, five witnesses were examined by the prosecution which included the complainant, public witnesses as well as official witness in support of the charge. In support of charge No.2, documentary evidence was placed before the inquiry officer.

5. The petitioner was given full opportunity to cross-examine the witnesses which he did as well as to lead his defence. The petitioner was given full opportunity to make a statement and lead his defence as well. In fact, the record placed before us shows that the petitioner was given an adequate opportunity to defend himself.

6. The inquiry officer had culminated the proceedings and made a recommendation dated 24th April, 2011 finding the petitioner guilty of the charges. The inquiry officer reported that Articles 1 and 2 of the allegations levelled against the petitioner stood fully proved beyond doubt.

7. A copy of the inquiry report was forwarded to the petitioner under the cover of the communication dated 26th April, 2011 sent

by the Group Commandant and he was given an opportunity to file representation against the same.

8. The disciplinary authority considered the representation of the petitioner at length and found no substance in the claim of the petitioner to the effect that he had not committed act of mischief on 'A' and passed a detailed order dated 14th June, 2011. After examining the proceeding of the inquiry officer including the evidence of the witnesses including the complainant, available on record and considering the defence version, the disciplinary authority concurred with the recommendations of the inquiry officer and found that the charges stood proved against the petitioner. It was also observed that the inquiry had been conducted according to the departmental inquiry rules and that the petitioner was given full opportunity to lead the evidence and cross-examine the witnesses.

9. Further in exercise of power conferred upon it under the provisions of Rule 32 of CISF Rules, 2001, the disciplinary authority imposed the penalty of dismissal from service with immediate effect against the petitioner. Aggrieved by the order of the disciplinary authority, the petitioner filed an appeal dated 11th July, 2011 under Rule 46 of the CISF Rules before the Deputy Inspector General (North Zone) raising the same contention as he had urged in defence to the charges. The petitioner also contended that six punishments imposed upon him were minor

punishments and such punishments having been imposed, he could not be penalized second time for the same. The petitioner's appeal was rejected by the Deputy Inspector General (NZ) of the CISF vide detailed order dated 3rd September, 2011. The contentions of the petitioner have been specifically and carefully dealt with in the appellate order and the evidence led in the inquiry proceedings has been discussed at length.

10. The appellate authority has also noticed that the inquiry officer had provided the petitioner due opportunity to cross-examine the prosecution witnesses and to lead his evidence. There is detailed reference to the statement of complainant 'A'. The manner in which the petitioner had conducted himself has also been considered extensively. The appellate authority also notices experience of the petitioner in the force and found that the punishment imposed upon him was proportionate to the charges proved against him. It was concluded that the inquiry was according to the procedure provided under Rule 36 of the CISF Rules, 2001 and the inquiry officer had complied with the departmental policies as well as principles of natural justice. Full opportunity as prescribed under the rules was given to the petitioner by the inquiry officer, disciplinary authority as well as appellate authority.

11. The petitioner is aggrieved primarily because his version of the occurrence has been rejected and that of the prosecution

accepted. It is not urged that the findings of the authorities are not based on evidence led in the inquiry. There is also no grievance expressed before this court to the effect that there was any procedural violation or violation of any principle of natural justice.

12. Learned counsel for the petitioner has not been able to point out any procedural lapse in the action which was taken against him. The action taken by the respondents is based on documentary and oral evidence led before the inquiry officer and on detailed consideration of the same as well as of the defence set-up by the petitioner.

We find no legal infirmity in the action which has been taken against the petitioner or in the impugned orders.

13. The writ petition and application are hereby dismissed.

GITA MITTAL, J

J.R. MIDHA, J

JULY 17, 2012

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