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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment delivered on: 5th November, 2012*

+ **W.P.(C) No. 6963/2012**

PANKAJ KUMAR SINGH Petitioner

Through: Mr.Anilendra Pandey and Ms.Priya
Kashyap, Advocates.

Versus

UNION OF INDIA Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Vide the instant petition, the petitioner seeks quashing of the order dated 05.10.2011 issued by the Disciplinary Authority, Rajya Sabha Secretariat, whereby the petitioner has been removed from services with retrospective effect as on dated 04.10.2011. Also seeks setting aside of the order dated 14.09.2012 issued by the Chairman, Rajya Sabha while exercising its appellate jurisdiction.

2. The instant petition has been filed basically on the ground of disproportionate punishment as the alleged charges are not so grave deserving the ultimate punishment of removal from service.

3. Brief facts of the case are that the petitioner had joined the Rajya Sabha Secretariat as the Security Assistant Grade-II in the month of July, 2008. On 19.01.2010, the petitioner went to the office of News Channel in the evening, where he entangled with the dispute with a lady Receptionist, therefore, he was booked U/s 151 of the Code of Criminal Procedure, 1973.
4. Since on 20.01.2010 the petitioner was enlarged on bail by the learned Magistrate, therefore, he could not attend his office on that day. On 21.01.2010, while joining his duties, the petitioner applied for one day casual leave for 20.01.2010 on the basis of self-illness.
5. It is further averred in the petition that due to the aforesaid incident, the petitioner became upset and undergone medical treatment. Therefore, he took medical leaves for three weeks.
6. On 25.01.2010, the Joint Director (Security) of the Secretariat, issued a letter stating all the facts of the said incident to the Director with a view to look into the legal aspect of the matter along with disciplinary angle.
7. On 17.02.2010, the petitioner approached the department for joining the duties, however, he has been served with a suspension order due to the reason of the incident as stated for the purposes of departmental enquiry. Thereafter, on 07.06.2010, the suspension order was revoked by the department and the petitioner joined the duties properly.
8. Thereafter, on 21.03.2011, the Deputy Director of the respondent issued a memorandum regarding the departmental enquiry of the matter.

9. Since, on 03.06.2011, the petitioner pleaded guilty of the charges framed against him before the Enquiry Officer, therefore, the enquiry was closed, as charges proved, vide order dated 20.06.2011.

10. Vide order dated 05.10.2011, the Disciplinary Authority, Secretariat General, Rajya Sabha removed the petitioner from the services with retrospective effect as on dated 04.10.2011. Pursuant thereto, petitioner preferred an appeal before the Chairman, Rajya Sabha, however, the same has also been dismissed vide order dated 14.09.2012.

11. Undisputed facts are that the disciplinary proceedings were initiated against the petitioner under Rule 16 of the Rajya Sabha Secretariat (Recruitment and Conditions of Service) Rules, 1957 read with Rule 14 of the CCS (CCA) Rules, 1965 on the charges of failure to maintain absolute integrity and conduct on becoming an employee of this Secretariat, in violation of Rules 3(1)(i) and 3(1)(iii) of the CCS (Conduct) Rules, 1964 vide memorandum No.RS/18 /18/2010-Perl dated 21.03.2011. An Enquiry Officer was appointed to conduct the enquiry in respect of four articles of charge framed against the petitioner vide the aforesaid memorandum dated 21.03.2011. The same read as under:-

“Article I:-

That the said Shri Pankaj Kumar Singh while functioning as Security Assistant, Grade-II in the Parliament Security Service of the Rajya Sabha Secretariat, failed to intimate to the Secretariat until 22.01.2010, the fact of his arrest by police on 19.01.2010 and the circumstances connected therewith. Failure to so inform the Secretariat, amounts to suppression of material information by Shri. Pankaj Kumar Singh. He

has thus failed to maintain absolute integrity and had violated Rule 3(1)(i) of the CCS (Conduct) Rules, 1964.

Article II:-

That on 19.01.2010 at about 09.30 p.m., the said Shri Pankaj Kumar Singh Security Assistant, Grade-II, misbehaved with the lady receptionist of a media company at it's corporate office located at Sector-16A, Film City, Noida. By misbehaving with the lady receptionist. Shri. Pankaj Kumar Singh acted in a manner which is unbecoming of an employee of the Secretariat. He has thus violated Rule 3(1)(i) of the CCS (Conduct) Rules, 1964.

Article III:-

That on 19.01.2010 at about 09.30 p.m., the said Shri Pankaj Kumar Singh Security Assistant, Grade-II, created ruckus under the influence of liquor at a corporate office of a media company located at Sector-16A, Film City, Nodia. By creating ruckus under the influence of liquor at a corporation office of a media company, Shri. Pankaj Kumar Singh has acted in a manner which is unbecoming of an employee of the Secretariat. He has thus violated Rule 3(1)(i) of the CCS (Conduct) Rules, 1964.

Article IV:-

That the said Shri Pankaj Kumar Singh Security Assistant, Grade-II, was arrested by the police in the night of 19.01.2010 for creating ruckus under the influence of liquor at a corporate office of a media company located at Sector-16A, Film City, Nodia. The matter got reported in a prominent Hindi newspaper on 21.01.2010 with the heading "Channel Mein Hangama" Rajya Sabha ka Guard Girafar". By his aforesaid conduct which got reported in the print media, Shri. Pankaj Kumar Singh has brought disrepute to the organization thereby acting in a manner which is

unbecoming of an employee of the Secretariat. He has thus violated Rule 3(1)(i) of the CCS (Conduct) Rules, 1964.”

12. During the enquiry, the petitioner admitted all the charges framed against him and prayed forgiveness with an assurance to the Enquiry Officer not to repeat such acts in future.

13. The Disciplinary Authority, after going through the charges leveled against the petitioner, has opined that the conduct of each and every security person should be exemplary and he/she should be a person with an impeccable integrity. The petitioner, who was a temporary employee in the Secretariat and that too on probation as a Security Assistant Grade-II since 28.07.2008, by his discourteous and unruly behavior, under the influence of liquor, has brought disrepute to the Secretariat.

14. It is further recorded by the Disciplinary Authority that by suppressing the material information relating to his arrest by the police, he has utterly failed to live upto the standards of profession/personal conduct and absolute integrity expected from the security personnel of the Rajya Sabha Secretariat. The misconduct of the charged officer was extremely serious and calls for deterrent punishment.

15. In view of above, the Disciplinary Authority imposed the penalty of removal from services upon the petitioner. Thereafter, he preferred an appeal, which was disposed of vide order dated 14.09.2012, wherein it has been recorded that the daily order sheet dated 03.06.2011 shows that the charged officer attended the preliminary hearing on that very day i.e. 03.06.2011 and admitted all the charges framed against him. The said order

sheet has been duly signed by the charged officer and his signature, being undisputed, is sufficient testimony of his agreement with the contents of the order sheet. Since the charged officer admitted all the charges, as evident from the said order sheet, no further inquiry was required to be conducted in the matter and the inquiry stood concluded.

16. Accordingly, finding no merit in the appeal, the same has been dismissed by the Chairman, Rajya Sabha Secretariat vide its impugned order dated 14.09.2011.

17. Learned counsel appearing on behalf of the petitioner has relied upon a case bearing No. W.P.(C) No.1722/1999, titled as ***Sahdev Singh Vs. U.P.Public Service Tribunal & Ors.***, decided on 19.02.2001 by the Allahabad High Court, wherein the termination order was set aside and the petitioner was reinstated in service.

18. On going through the judgment cited above, I am of the considered opinion that the facts of the case in hand are different. In the present case, the petitioner has admitted all the charges framed against him. He was on probation not a confirmed employee. Whereas, in the case cited above, the petitioner therein was a regular employee and as per the charges, he was found having consumed liquor while on service, therefore, the Court held that the punishment awarded to him was not proportionate to the misdemeanor committed by him.

19. Whereas in the present case, the petitioner failed to intimate about the incident and arrest to the Secretariat, which amounts to concealment of information. He misbehaved with a lady which is unbecoming of a Security

Officer. He was arrested by the police in the night of 19.01.2010 for creating ruckus under the influence of liquor at a Corporate Office of a media which brought disrepute to the organization.

20. In view of the discussion as above, I am not inclined to interfere with the orders passed by the Disciplinary Authority and the Appellate Authority.

21. Therefore, the instant petition is dismissed in limini.

22. No orders as to costs.

SURESH KAIT, J.

NOVEMBER 05, 2012

Sb/jg