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

+ **W.P.(C) No.3109/2013**

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Date of decision: 21st May, 2013

SH. RAMBIR

..... Petitioner

Through : Mr. Amit Jain, Adv.

versus

CENTRAL INDUSTRIAL SECURITY FORCE

AND ORS

..... Respondents

Through : Mr. Sarat Chandra and Mr.
Sachin Chandra, Adv.

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MS. JUSTICE DEEPA SHARMA

GITA MITTAL, J. (Oral)

1. The petitioner in this case was serving as Constable with the Central Industrial Security Force. The petitioner was charged for his misconduct vide memorandum no.V.15014/DISC/CISF/36/Rambir.11 /2075 dated 18th September, 2011. The petitioner was found culpable and the findings in the court of inquiry officer were assigned by the disciplinary authority by an order 18th November, 2011. No violation of the requirement of principle of natural justice in the conduct of the disciplinary proceedings has been pointed out. The petitioner was given an opportunity to represent against the recommendations of the inquiry officer as well. After

consideration of the entire matter, by an order dated 1st February, 2012, the Assistant Commandant/FIRE CISF Unit NFL found the petitioner guilty and imposed punishment of removal from service.

2. Aggrieved thereby, the petitioner filed the statutory appeal to the Deputy Inspector General of Police which was dismissed by an order passed on 31st May, 2012. The petitioner further assailed the same by way of revision petition which was also dismissed by an order passed on 31st October, 2012. Before this court, the petitioner has assailed the aforementioned orders of the disciplinary; appellate and revisional authorities.

3. It is submitted in these proceedings that witnesses PW-1, 2 and 4 to 7 had deposed in favour of the petitioner and supported the statement of the petitioner

4. At this stage, Mr. Amit Jain, learned counsel representing the petitioner confines the challenge to the submission that the punishment of removal from service is grossly disproportionate to the nature of charges on which the petitioner was tried.

5. It is submitted by Mr. Jain, learned counsel for the petitioner that by virtue of the punishment which has been imposed upon the petitioner, all avenues of further employment even in the private sector have been foreclosed. Learned counsel contends that the present case did not call for imposition of the harshest penalty of removal from service. It is submitted that if in case the petitioner was to be put out of the uniformed force, the respondents had other options available to them.

6. It is submitted that the petitioner has an unblemished record of more than 19 years of service without any punishment ever having been imposed upon him. It is further contended that according to the respondents there was grave provocation as the jawans including the petitioner were compelled to eat meat in the month of Sawan which was prohibited on religious grounds. It is further contended that according to the respondents the incident took place which resulted in commencement of the disciplinary proceedings against the petitioner was without any premeditation. It is submitted that this circumstance ought to have been considered as a mitigating circumstance while considering the punishment imposed upon the petitioner by the disciplinary, confirmed by the appellate and revisional authority. A prayer in this regard was made before the appellate and revisional authority by the petitioner but the same has not been noticed.

7. Mr.Chhibber submits that the matter may be remanded back to the revisional authority for consideration on this aspect of the matter.

8. On a consideration of the above submission, while upholding the finding of guilt of the petitioner on the charges for which the disciplinary proceedings were conducted against him, the matter is hereby remanded to the revisional authority for reconsideration of the aspect of the proportionately of the punishment imposed upon the petitioner.

9. The petitioner is given an opportunity of making representation on the above aspect to the revisional authority within a period of four weeks from today. The order shall be passed by the revisional authority within six weeks of receipt of representation from the petitioner and shall be promptly communicated to him.

10. We make it clear that it shall be open for the revisional authority to take a considered view with regard to the punishment uninfluenced by any observations made by us today in the matter.

This writ petition is disposed of in the above terms.

Dasti to learned counsel for the parties.

GITA MITTAL, J

DEEPA SHARMA, J

MAY 21, 2013

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