

GAHC010138562018



2024:GAU-AS:10116

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4319/2018

DEVENDER SINGH
S/O- LATE CHENDHI RAM, C/O- 164 BN CRPF, C/O- 56 APO

VERSUS

UNION OF INDIA AND 3 ORS
REP. BY THE SECRETARY, MIN OF HOME AFFAIRS, NEW DELHI- 110003

2:THE DIRECTORATE GENERAL
CENTRAL RESERVE POLICE FORCE
BLOCK NO. 1
CENTRAL GOVERNMENT OFFICE COMPLEX
LODHI ROAD
NEW DELHI- 110003

3:THE INSPECTOR GENERAL OF POLICE
NORTH EAST SECTOR
CENTRAL RESERVE POLICE FORCE
SHILLONG
MEGHALAYA- 793001

4:THE DEPUTY INSPECTOR GENERAL OF POLICE
GROUP CENTRE
CENTRAL RESERVE POLICE FORCE
AMERIGOG
GUWAHATI- 78102

Advocate for the Petitioner : MR. D BARUA, MS K BORKOTOKY,MR. B CHAKRABORTY

Advocate for the Respondent : ASSTT.S.G.I., MR. S S ROY (SC, C.G.C.)

BEFORE

HON'BLE MR. JUSTICE KALYAN RAI SURANA

For the petitioner	: Ms. K. Borkotoky, Advocate.
For State respondents	: Mr. S.S. Roy, CGC.
Date of hearing	: 12.06.2024.
Date of judgment	: 03.10.2024.

JUDGMENT AND ORDER

(CAV)

Heard Ms. K. Borkotoky, learned counsel for the petitioner. Also heard Mr. S.S. Roy, learned C.G.C. appearing for the respondents.

2) In this writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed as follows:-

“In view of the premises aforesaid it is most respectfully prayed that your lordship would be graciously pleased to admit this petition, call for the records and issue a rule calling upon the respondents to show cause as to why the order passed by the respondent no.4 (DIG, CEPF, GC, Amerigog, Guwahati) shall not be set aside and quashed and cause or causes being shown and upon perusal of the records and hearing the parties will be further pleased to make the rule absolute and pass any such further order/ orders as your lordship may deem fit and proper.”

3) Thus, it is seen that no specific order has been assailed.

4) In brief, the case of the petitioner is as follows:-

- a. That at the relevant time he was working as an Assistant Commander of Central Reserve Police Force (CRPF for short) and posted at ISA, Mount Abu, Rajasthan.
- b. It is projected that on 19.07.2008, while the petitioner was posted at 53 Bn., he was scolded badly by the Commandant for no rhyme or reason though he was not holding any charge or assigned any task. It

is alleged that he was humiliated for belonging to scheduled caste. It is projected that the petitioner had objected to such humiliation, but the Commandant had ordered a preliminary enquiry against the petitioner. It is projected that though he had complained to the DIG, CRPF, Guwahati and to the Inspector General of Police, CRPF, Shillong against such humiliation, but no action was taken.

- c. On 22.11.2008, the DIG, CRPF, Guwahati had appointed Sri Dilip Singh, the Commandant of 53 Bn. as the Enquiry Officer, who had submitted his report on 22.05.2009, holding that both charges against him were proved.
- d. Accordingly, by an order dated 10.08.2009, the DIG, CRPF, Guwahati, held the petitioner guilty of both charges and awarded punishment of stoppage of increments of two years with cumulative effect.
- e. The petitioner has projected that in the meantime, he was subjected to differential treatment and frequent transfers and in the year 2009, he was transferred on three occasions. On 25.03.2009, he was transferred from 53 Battalion (Bn. For short) to 164 Bn.; then on 04.09.2009, he was transferred from 164 Bn. to 6 Bn.; and then on 21.09.2009, he was transferred from 6 Bn. to 164 Bn.
- f. Aggrieved by the decision and punishment, on 16.09.2009, the petitioner had submitted an appeal before the Inspector General of Police, CRPF, Shillong. The said appeal was rejected by order dated 22.04.2010.

5) This writ petition was filed on 22.06.2018. Therefore, in order to explain the delay, the petitioner has projected that against the order under

challenge, the petitioner had filed a writ petition before the High Court of Jammu & Kashmir, which was registered as S.W.P. No. 431/2010. However, the said writ petition was dismissed by order dated 04.02.2015 as not maintainable, but with liberty to approach the Central Administrative Tribunal and/or any other forum available to the petitioner and that the period against time spent in prosecuting the matter shall not stand in the way of the petitioner. Thereafter, the petitioner had approached the Central Administrative Tribunal, Delhi, which was not accepted at the time of scrutiny itself. Thereafter, the petitioner had filed a writ petition before the Delhi High Court, which was registered as W.P.(C) No. 2152/2016, which was dismissed as withdrawn, with liberty to challenge the orders dated 10.08.2009 and 22.04.2010, passed by the Disciplinary Authority and Appellate Authority respectively. Thereafter, the petitioner had filed a revision as per Rule 29 of the CRPF Rules, 1955, which was also rejected by order dated 17.10.2016, passed by the Special . Thereafter, the present writ petition was filed on 22.06.2018.

6) The matter was heard at some length and the record or original Departmental Enquiry file, as produced by the learned CGC, has been carefully perused.

7) In this writ petition, the respondents are as follows, viz., (1) Union of India, represented by the Secretary, Ministry of Home Affairs, New Delhi (respondent no.1); (2) The Directorate General, CRPF, New Delhi (respondent no.2); (3) The Inspector General of Police, North East Sector, CRPF Shillong (respondent no.3); and (4) The Deputy Inspector General of Police, Group Centre, CRPF, Amerigog, Guwahati (respondent no.4).

8) It is not in dispute that order dated 10.08.2009 was passed by the DIG, CRPF, Amerigog, Guwahati (respondent no.4), who is the Disciplinary

Authority in respect of the petitioner. The appeal of the petitioner was addressed to the Inspector General of Police, NES, CRPF and it is not in dispute that upon the said appeal filed by the petitioner, the Appellate Authority, i.e. the Inspector General of Police, CRPF, NES, Shillong (respondent no. 3).

9) Thus, it is seen that the prayer made in the writ petition is not liable to be allowed because the petitioner has prayed for interfering with the order passed by the DIG, CEPF (*sic.*), GC, Amerigog (respondent no.4). It is assumed that CEPF is a typing/ clerical mistake and is to be read as "CRPF". Nonetheless, the Disciplinary Authority, i.e. DIG, CRPF, Amerigog, Guwahati (respondent no.4), by an order dated 10.08.2009, imposed punishment to the petitioner of "stoppage of increment of two years with cumulative effect". Against the said order, the petitioner had preferred an appeal before the Appellate Authority i.e. the Inspector General of Police, CRPF, NES, Shillong (respondent no.3), which was dismissed by order dated 23.04.2010, passed by the respondent no.3 and the punishment awarded to the petitioner by the Disciplinary Authority was affirmed. The said appellate order passed by the Appellate Authority i.e. respondent no.3, has attained finality. Moreover, the petitioner had preferred a revision before the Revisional Authority i.e. The Director General of CRPF, New Delhi. However, the said revision was also dismissed by a speaking order dated 17.10.2016, passed by the Special Director General, N.E. Zone, CRPF, Guwahati. The petitioner has neither assailed the said revisional order nor is the said revisional authority arrayed as one of the respondents. Thus, the revisional order dated 17.10.2016, passed by the Special Director General, CRPF, N.E. Zone, Guwahati, has also attained finality.

10) Under such circumstances, when the appellate order dated 22.04.2010 and the revisional order dated 17.10.2016, have both remained un-

challenged or un-assailed by the petitioner, the Court is of the considered opinion that any discussion on the order dated 10.08.2009, passed by the Disciplinary Authority, would only be a futile and/or an academic exercise.

11) Accordingly, when the hereinbefore referred appellate order dated 22.04.2010 as well as the revisional order dated 17.10.2016 have both attained finality, this writ petition is found to be devoid of any merit and accordingly, this writ petition is dismissed. We leave the parties to bear their own cost.

12) The records of Disciplinary Enquiry, as produced by the learned CGC is returned back.

JUDGE

Comparing Assistant