

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8578 of 1998

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M.N.Hussain, son of late Md. Suleman, resident of village- chauk Fatehpur, P.S. Sabour, District-Bhagalpur

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, Government of India, New Delhi
2. The Secretary, Ministry of Home Affairs, Government of India, New Delhi
3. The Deputy Inspector General of Police, Central Reserve Police Force, Nagpur-19
4. The Commandant, 45, BNatalian, Central Reserve Police Force, Gangtok, Sikkim-737101

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Mishra
Md.Nurul Hoda

For the Respondent/s : Mrs. Nivedita Nirvikar, CGC

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 20-02-2015

1. The petitioner in the present writ application seeks quashing of an order dated 26.5.,1998 passed by the Deputy Inspector General of Police, Central Reserve Police Force, Nagpur whereby, in suo motu exercise of power under Rule 29(d) of the Central Reserve Police Force Rules, 1955, he has enhanced the punishment of compulsory retirement which was earlier imposed on the petitioner, to dismissal from service.

2. The petitioner was holding the rank of Naik in Central Reserve Police Force, Nagpur at the relevant point of time when the punishment of compulsory retirement was imposed upon him by the

Commandant 45, Batalian, Central Reserve Police Force, Gangtok, dated 19.1.1998.

3. From the impugned order it appears that a disciplinary proceeding was initiated against the petitioner for the following charge:-

“That the said No. 680295961 NK M.N. Hussain of B/45 BN CRPF has committed an offence on his part that he furnished a false certificate about his education and date of birth to secure appointment as Constable in CRPF. When asked to a show cause notice about his education certificate and his date of birth he failed to give correct reply and thus he committed an offence which is punishable under Section 11(1) of CRPF Act 1949 read with Rule 11(2) of CCS (CCA) Rules, 1965”

4. The Inquiry Officer found him guilty of the charge, whereafter the Disciplinary Authority agreeing with the findings of the Inquiry Officer imposed punishment of compulsory retirement from service with effect from 19.1.1998 vide an order dated 19.1.1998.

6. Sub Rule (d) of Rule 29 of the Central Reserve Police Force Rules, 1955 confers jurisdiction upon the Additional Director-General or Inspector General or the Deputy Inspector-General of Police to call for the records of the award of any punishment and confirm, enhance, modify or annul the same, or make or direct further investigation to be made before passing such orders. The proviso to

Sub-Section (d) requires that in case in which it is proposed to enhance punishment, the accused shall be given an opportunity to show cause either orally or in writing as to why his punishment should not be enhanced.

7. This is not in dispute that a notice as required under proviso to Sub Rule (d) of Rule 29 was issued to the petitioner by the Director General of Police, C.R.P.F, Nagpur vide his letter dated 2.4.1998 mentioning therein that the punishment of compulsory retirement as a result of disciplinary enquiry was not given in conformity with the instructions contained in GOI, Deptt. Of Personnel and Training. OM No. 11012/7/91-Estt9A) dated 19.5.1993 and it was not commensurate with the gravity of the charge levelled against him. The Deputy Inspector General of Central Reserve Police Force, Nagpur vide the said show cause notice dated 2.4.1998, proposed to enhance the punishment, suo motu, to the extent of dismissal from service, from the date of serving such orders on the petitioner. The petitioner was accordingly given an opportunity to show cause as to why the proposed punishment should not be inflicted upon him, instead of punishment awarded by the Commandant 45, Batalion, Central Reserve Police Force, Gangtok. The petitioner replied to the said show cause notice dated 29.4.1998 which is Annexure-27 to the



writ application. The Deputy Inspector General of Central Reserve Police Force, Nagpur thereafter, after considering the show cause reply filed on behalf of the petitioner imposed the punishment of dismissal from service by the impugned order dated 26th May, 1998, which has been brought on record as Annexure-28 of the writ application.

8. Learned counsel appearing on behalf of the petitioner has submitted that it was highly unreasonable and arbitrary for the Deputy Inspector General of Central Reserve Police Force, Nagpur to have enhanced the punishment to dismissal from service once the petitioner had already accepted the punishment of compulsory retirement. He has submitted that the petitioner had served the Force for nearly 28 years and in such circumstance, keeping in view the past record of the petitioner, punishment of dismissal should not have been imposed upon him, after the petitioner already accepted the punishment of compulsory retirement. He further contends that in any view of the matter, the punishment of dismissal from service is disproportionate to the charge levelled against him.

9. There is no dispute about the fact that the Deputy Inspector General of C.R.P.F, Nagpur has been conferred jurisdiction to confirm, enhance, modify or annul any punishments imposed upon Force after giving an opportunity to show cause proposing to enhance



the punishment. Such power is not in dispute. The petitioner was given an opportunity to show cause. The findings recorded by the Inquiry Officer, accepted by the disciplinary authority are unquestionable as the petitioner had not challenged the finding and as a matter of fact, the findings cannot be challenged now. What punishment should be imposed on the basis of such finding is purely a matter to be decided by the employer who is the best suited authority to take such decision. The plea on behalf of the petitioner that once he accepted the punishment of compulsory retirement, it could not have been enhanced by the Director General, C.R.P.F is wholly misplaced. It is the Director General, C.R.P.F who has been conferred with the jurisdiction to accept/affirm and order of punishment or enhance or modify it. Such jurisdiction is statutory in nature. It is not the employee who has option to accept the order of punishment or do otherwise.

10. This Court does not interfere with the quantum of the punishment imposed unless the Court finds that the punishment is shocking disproportionate to the charge levelled against an employee. I have quoted the charge levelled against the petitioner at the very outset upon reading of the contents of the said charge, which came to be proved in course of enquiry, it cannot be said that the punishment of dismissal is disproportionate to the charge levelled against him.

11. In such circumstances, I do not find any merit in this application. This application is dismissed.

(Chakradhari Sharan Singh, J)

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