

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6811 OF 2009

Anil s/o Shamrao Jadhav

.... PETITIONER

V E R S U S

The Union of India & Anr.

.... RESPONDENTS

.....

Mr. Paresh B.Patil, Advocate for Petitioner.

Smt. Deepali Ansingekar, Advocate for Respondents.

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CORAM : A.V.NIRGUDE &

V.K.JADHAV, JJ.

DATE : 7th OCTOBER, 2015

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PER COURT :

1. This Writ Petition challenges order of dismissal dated 17/04/2008 passed by the Commandant, Central Reserve Police Force [For short, 'C.R.P.F.'].

2. The petitioner was held guilty of making a false statement at the time of his recruitment as 'soldier' in C.R.P.F. in June, 2004. When the petitioner was recruited, he made a statement that he was not involved in any criminal case. But, in 2005, in cross enquiry, it was found that the petitioner was

the accused in a criminal case which was filed by police for the offences punishable u/s 326,324 of the Indian Penal Code.

3. The employer of the petitioner thus came to the conclusion, *prima facie*, that the petitioner had suppressed information of character/criminal record on affidavit at the time of filling up the form for recruitment. Departmental enquiry was ordered and one enquiry officer was appointed for this purpose. His report was sent on 05/05/2007 to the Commandant. The enquiry officer exonerated the petitioner for want of evidence. The Commandant, however, did not accept the report and ordered fresh enquiry. There-upon, another officer was appointed as enquiry officer and he sent his report on 16/08/2007. On the basis of his report, the Commandant recorded the impugned order dismissing the petitioner from service.

4. Learned counsel for the petitioner admitted that, though the petitioner could have filed Appeal under Rule 28 of the Central Reserve Police Force Rules, 1955 [For short, 'Rules of 1955'], he did not prefer such Appeal, but came straight to this Court.

5. The question before us is, whether the enquiry and the order impugned suffer from any illegality ?

6. Learned counsel for the petitioner pointed out that the enquiry is bad because of principle of double jeopardy. In order to examine this aspect, we perused Rule 27

of Chapter VI of the Rules of 1955. Peculiarity of the rules is that after disciplinary enquiry was held by any officer other than the Commandant, the report together with the proceeding should go before the Commandant, who then should record his findings and pass necessary order.

7. In this case, when the first report was forwarded to the Commandant, he was duty bound to peruse the same and record his findings. The Commandant did not agree with the finding recorded by the enquiry officer and, therefore, he rightly set aside the finding of the enquiry officer. He could have recorded his own finding on the basis of material that was already collected in the enquiry. But, in stead of that, he thought it fit to re-assign the enquiry to another officer.

8. We do not find any error in such order. This order is fair and afforded one more opportunity to the petitioner to defend his case. The enquiry which was held subsequently, went against the petitioner, but in view of Rule 27 particularly sub Rule (6), we do not find any error or illegality in the procedure in conducting the enquiry. The enquiry did not suffer from double jeopardy.

9. Rule 27 clearly provided that in case of 'soldier' or 'sipai', the Commandant is empowered to pass order awarding punishment of dismissal or removal from service. In view of this, we do not find any illegality in the impugned order.

10. The Writ Petition, therefore, stands dismissed.

[V.K.JADHAV, J.]

[A.V.NIRGUDE, J.]

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