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

+ W.P.(C) 7779/2009

KHAZAN SINGH

..... Petitioner

Through: Ms. Garima Sachdeva, Advocate
alongwith Ms. Ankita Patnaik,
Advocates.

versus

UOI & ORS.

..... Respondents

Through: Ms. Monika Arora, Advocate
alongwith Mr. Gaurav Upadhyay and
Mr. Kushal Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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21.09.2015

The petitioner was charged for misconduct i.e. while he was on duty at Fatehpuri Mahal Begum Barz on Saheli Barz during second shift on 14.01.2007, he demanded Rs. 300/- from an Australian National even though the latter had a ticket to enter the monument. The petitioner was, at that time, working as a Constable and was deployed by the Central Industrial Security Force (CISF), the employer, on guard duty in the Taj Mahal Compound at Agra.

After enquiry, the petitioner was dismissed from service. His appeal and revision petition to the higher authority were unsuccessful.

He therefore approached this Court for relief.

During the pendency of the writ petition proceedings, the petitioner had apparently expired and been substituted by his legal representatives i.e. his wife and children. It is contended on behalf of the petitioner that the enquiry conducted by the CISF did not disclose any tangible evidence of the misconduct alleged against him. Learned counsel submits that instead the respondents have based the enquiry almost entirely upon the reporting of the news channel-Star News, which carried the footage. Learned counsel emphasises that the allegations with regard to the petitioner demanding and accepting the money were not established at all and that in these circumstances holding him guilty and extreme penalty of dismissal was unwarranted.

Learned counsel for the respondents relied upon the proceedings of the departmental enquiry and stated that at that time there was practically no dispute about the demand and acceptance of money. She relied upon the transcript of the film clip shot by the Australian National who also happened to be a cinematographer duly equipped with a camera. Learned counsel produced the footage looked into by the CISF during the course of the proceedings is available in the Court.

We observe that video coverage by the news channel includes the footage shot by the Australian national (namely Sh. Ahjmal Raghi). It also contains his interview. He clearly stated that the petitioner had demanded money despite being told that he (Ahjmal Raghi) was an Australian national and had duly paid the requisite entry fee. These facts were also clearly brought about in the course of

the enquiry. The proceedings of the enquiry furthermore revealed that the footage and the transcripts were made available to the petitioner.

The petitioner's counsel had urged that the amount allegedly seen in the video footage was actually given to him by his sister-in-law as "Bidai" since she was leaving Agra after a visit to her sister. This Court is of the opinion that the explanation strains credibility because the national who actually shot the footage further stated in the interview as to what transpired. No doubt, he could not participate in the departmental enquiry. He had apparently communicated through an email by the CISF which was produced during the course of the proceedings. The petitioner did not make any attempt to prove his defence i.e. that the amount had been actually given by sister-in-law either in the form of her deposition in the course of the enquiry proceedings or even in affidavit or letter from her. In these circumstances, the explanation given cannot be accepted.

In view of the conspectus of the circumstances, this Court is of the opinion that the dismissal order issued in this case cannot be interfered with. At the same time, the Court is conscious of the fact that the petitioner had served for 19 years in CISF and was at the threshold of attaining pensionable service when he was dismissed. He died during the pendency of these proceedings. It was stated in the hearing that the petitioner's family is under constrained circumstances. Having regard to these facts, the respondents may duly consider the grant of compassionate allowance in terms of Rule 41 of the CCS (Pension) Rules, 1972 in an appropriate manner and

communicate a decision to the petitioner's legal representatives within six weeks from today. The writ petition is dismissed subject to the above directions.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

SEPTEMBER 21, 2015

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