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

% *Date of Decision : February 11, 2015*

+ **W.P.(C) 8200/2014**

T.K. RAI Petitioner

Represented by: Mr.Girijesh Pandey, Advocate

versus

UNION OF INDIA & ORS. Respondents

Represented by: Mr.Vikas Mahajan, CGSC with
Mr.S.S.Rai, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J. (ORAL)

CM No.19077/2014

Allowed subject to just exceptions.

W.P.(C) No.8200/2014

1. Though notice has yet not been issued in the writ petition till date, and we find that the writ petition was previously listed on November 26, 2014 and December 15, 2014, since record of enquiry conducted against the petitioner has been produced by learned counsel for respondents because advance copy of the writ petition was served upon the respondents, and since the challenge in the writ petition is to an order dated October 14, 2013 compulsorily retiring (by ways of penalty) the petitioner with full pensionary benefits, against which appeal preferred was rejected on December 31, 2013 and revision was rejected on April 17, 2014 we have

proceeded to hear arguments of learned counsel for the reason since a writ of certiorari is sought to be issued; and needless to state the return to the Rule would be the production of the record.

2. The record would evince that a charge memo dated June 12, 2013 was issued to the petitioner containing two charges. Charge No.1 was of having made, by passing the official channels, unnecessary communications to various departments and constitutional authorities and in spite of being warned and cautioned six times not to do so, repeating the misconduct; which was stated to evincing lack of discipline by a member of a disciplined force (CISF).

3. The second charge, would actually not be a charge, for the reason it listed 15 past penalties levied upon the petitioner ranging from censure to withholding increments or deduction from the pay to bring home to the petitioner that if he was found guilty of Charge No.1, his past service record would be considered. Pithily put, the past 15 penalties would be:-

- (i) Penalty dated June 15, 2000 of withholding one increment for one year without future effect for overstaying leave by 39 days.
- (ii) Penalty dated September 04, 2004 of deduction of two days' pay for the misdemeanour of refusing to receive a letter from the Commandant.
- (iii) Penalty dated June 19, 2004 of withholding one increment for one year without future effect for using derogatory words in an application dated April 12, 2004 against the unit in-charge and a female duty officer posted in the unit.
- (iv) Penalty dated July 19, 2004 of censure for not making departure in the daily diary in the control room when petitioner proceeded for 11 days' leave on June 19, 2004.
- (v) Penalty dated September 13, 2006 of two days' pay being deducted for being found guilty of being absent from the duty post in the intervening

night of February 14 and 15, 2006.

(vi) Penalty dated June 11, 2006 of Censure for using threatening words against the superior officer.

(vii) Penalty dated August 05, 2006 of withholding one increment for one year without future effect for making false complaints to the National Human Rights Commission.

(viii) Penalty dated August 28, 2011 of being reduced in the time scale of pay for a period of three years for the twin charge of sleeping during duty on September 11, 2010 and making false and frivolous complaints against the Company Commander alleging that the Company Commander used to demand bribes.

(ix) Penalty dated April 30, 2011 of being lowered in time scale of pay by one stage for sleeping during duty hours.

(x) Penalty dated September 30, 2011 of censure for forwarding applications to senior officers and including the Prime Ministers, levelling false allegations against the senior officers of the force.

(xi) Penalty dated September 30, 2011 of censure for sending false complaints to the Prime Minister's Office.

(xii) Penalty dated April 23, 2012 of deduction of three days' salary for levelling false allegations against senior officers in an application submitted to the Director General.

(xiii) Penalty dated May 25, 2012 of five days' salary being deducted for sending an application directly to the Speaker of the Lok Sabha on March 05, 2012 making false allegations against senior members of the Force.

(xiv) Penalty dated May 25, 2012 of deduction on three days' salary for addressing an application containing false allegations to the Inspector General on October 31, 2012.

(xv) Penalty dated January 05, 2013 of withholding one increment for a

period of one year by by-passing the official channel and sending a communication to the DIG, levelling false allegations.

4. The record would evince that after the charge-memo was served upon the petitioner and an Inquiry Officer was appointed who gave him a notice to appear before him, the petitioner attended the preliminary hearing held on July 23, 2013 and accepted having received the charge-memo, the documents relied upon by the department, the list of witnesses and the statement of imputation in support of the two charges. He admitted having understood the charge. He pleaded not guilty. He said that he had no objection to the Inquiry Officer in holding the inquiry. He desired to defend himself. Record would show that the department examined witnesses to prove the various documents, needless to state, being as per Charge No.1 i.e. the various communications addressed on various dates by by-passing the official channel to senior officers and constitutional authorities such as the Prime Minister, President of India, Home Secretary, Chief Justice of India and the Speaker of the Lok Sabha. The witness to the character of the petitioner produced the relevant record and proved the 15 penalties levied in the past.

5. Only contention advanced at the hearing today by learned counsel for the petitioner is that the penalty is levied mala-fide. Malice being that the wife of the petitioner could not conceive and the petitioner and his wife availing IVF facility at Pushpanjali Crosslay Hospital. As per the petitioner the treatment necessitated he spending time with his wife and the doctor under whose supervision they were availing IVF facility and his superior officers not accepting his request to give him duties which would be convenient for him.

6. Perhaps the desire to have a progeny is troubling the petitioner. This explains his irritable behaviour. This explains that at the drop of the hat he

makes a complaint against all and sundry. This explains the petitioner addressing communications, by bypassing the official channels, to his IG, his DGP and his DG, the Home Minister, the Prime Minister, the Speaker of the Parliament and even the Chief Justice of India.

7. The petitioner does not deny various communications sent by him and we find that the contents of the letters are nothing but grievances against each and every superior officer.

8. It is trite that past conduct of a person holding a senior post is relevant on the quantum of the penalty which has to be levied. The unfortunate service record of the petitioner would show that he had become a nuisance for himself and the department. The misdemeanours committed by him were repeated time and again and we see nothing disproportionate in the penalty levied for the last set of wrongs of sending communications, by bypassing the official channel, to the superior officers and even others who had no concern with the issue raised by the petitioner. The language is bordering on being intemperate. The penalty is one of compulsory retirement with pensionable benefits. The officer levying the penalty has blended justice with the need to maintain discipline in the Force.

9. There is no merit in the writ petition which is dismissed in limine but without any order as to costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

FEBRUARY 11, 2015
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