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

**Decided on : 24.08.2015**

+ **W.P.(C) 8026/2015 & CM No. 16456/2015**

**CHATTAR SINGH**

..... Petitioner

Through: Mr. Shankar Raju, Advocate  
alongwith Mr.Ashish Rawat and Mr.  
Rajpal Rawat, Advocates.

versus

**UNION OF INDIA AND ANR.**

..... Respondents

Through: Mr. R.V. Singh, Advocate alongwith  
Ms.Pallavi Shali, Advocate.

**CORAM:**  
**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**  
**HON'BLE MS. JUSTICE DEEPA SHARMA**

**MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)**

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1. The petitioner's grievance is that the impugned order removed him from the services of the Central Industrial Security Force (CISF) for an alleged misconduct committed on 25.05.2014.

2. The facts in brief are that the petitioner was deployed at the International Airport Mumbai as Security Guard and then working as Sub-Inspector (Executive) specifically tasked to check gate tickets and passports of the passengers. It was alleged that one of the passengers complained of inappropriate behavior for which a preliminary enquiry was conducted. This ultimately resulted in an order of dismissal. The CISF invoked Rule 39(2) of

the CISF Rules, 2001, which enables it to dispense with the departmental enquiry when it is not “reasonably practicable to do so”.

3. The petitioner complains that though a preliminary enquiry was conducted, in the course of which apparently CCTV footage was taken into consideration, the disciplinary authority never put the adverse material i.e. the relevant footage to him. The bare allegations were put to him in a preliminary enquiry for which according to him sufficient and reasonable explanation had been provided by him i.e. that the passenger moved suddenly which resulted in accidental contact.

4. It is submitted that denial of CCTV footage and a chance for him to substantiate the defence of accidental touch, as put forward by him, was deliberately denied, resulting in injustice. It was submitted that in any event the circumstances of the case did not warrant invocation of Rule 39(2).

5. The respondent submitted that allegations contained all features requisite for invoking Rule 39(2). The passenger is a foreign national and requiring her to depose in the departmental proceedings was under the circumstances impossible given that she was travelling abroad. Consequently, when she submitted a written complaint, the only reasonable way of ascertaining the truth was to view the CCTV footage which amply bore out her allegations.

6. The preliminary enquiry proceedings have been produced before the Court. The petitioner’s explanation is as follows:-

*“.....I went towards her, after checking while I was returning her ticket and passport all of a sudden she came forward and at that point of time I happened to touch her. At that point of time itself I said sorry to her. She replied do not touch, thereafter the gate was closed.*

*I asked her to move a little backward because sensor works only for a distance and thereafter she went inside. This is my statement. I am making this statement in my full sense and without any pressure and I have narrated the entire story.”*

7. The officer who conducted the enquiry asked few questions; however there is nothing to show that CCTV footage was made available or that the petitioner was confronted with it. Equally, recitals and contentions of the order dismissing the petitioner from the services – issued by Deputy Inspector General nowhere show that the CCTV footage was disclosed to the petitioner and the petitioner’s explanation viewed from that perspective.

8. This Court has no hesitation in holding that in the circumstances of the case, the invocation of Rule 39(2) was warranted given that the complainant was a foreign national. Yet at the same time, it was the matter of record that the CCTV footage-the most objective material -was available with the CISF. To that limited extent, some enquiry ought to have been conducted, merely just to test the petitioner’s explanation given in the preliminary enquiry. He relies upon that explanation to say that he did not intentionally or with deliberateness touch the complainant and rather asserts that the incident occurred accidentally. In these circumstances, the impugned order removing the petitioner from service w.e.f. 25.05.2014 is hereby set aside. The respondents shall issue an appropriate order under FR-54B, for the purposes of the limited enquiry to be conducted and pass appropriate orders with respect to subsistence allowance. The limited enquiry which the present order authorises i.e. providing the relevant copy of the extract of the

footage to the petitioner and considering his explanation, shall be completed within four weeks from today.

9. The final orders of the enquiry shall be made within four weeks thereafter. The writ petition is allowed in the above terms.

**S. RAVINDRA BHAT  
(JUDGE)**

**DEEPA SHARMA  
(JUDGE)**

**AUGUST 24, 2015**  
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