

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3993 OF 2013

Basraj Ramsingh Kayte (K.B.R. Singh) ..Petitioner
V/s.
Union of India & Ors. ..Respondents

Mr.Dorman J. Dalal a/w Mr.Anil Nagwani for the Petitioner.
Mr.Suresh Kumar a/w Ms.Sangeeta Yadav for Respondent No.1.

**CORAM : ANOOP V. MOHTA AND
G.S. KULKARNI, JJ**

DATE : 19th JULY 2016

ORDER :

1. Heard finally by consent of the parties.
2. The petitioner who was appointed in Central Industrial Security Force, as constable has filed this petition thereby challenging the termination order dated 07-10-2009 which was confirmed by the Appellate Authority on 25-11-2009, and lastly, by the Revisional Authority on 25-01-2010.
3. To the averments of the petitioner, the respondents have filed a detailed reply with supporting material to justify the action which has been taken based upon the inquiry report and

which was, as noted above confirmed by the Appellate Authority as well as by the Revisional Authority. The charges as made against the petitioner in the departmental are quite serious which read as under:-

“That when CISF No.034610398 Constable A. Govinda Rao of CISF Unit Currency Note Press (CNP) Nashik was away on election duty from 26-10-2008 onwards, CISF No.912332932 Constable K.B.Ramsingh of CISF Unit CNP Nashik made unwelcome advances in a sexually determined manner towards Mrs.Usharani, wife of Constable A. Govind Rao who was staying alone in family quarter No.888 Type-A at ISP Colony Nehrunagar, Nashik Road and made telephone calls proposing sexual demand to Mrs.Usharani, which amounts to gross misconduct and indiscipline unbecoming of a member of the disciplined para-military Force.”

4. This is not a case where no opportunity was given to the petitioner. On the contrary, after going through the reasons as well as the documents so placed on record, we have also noted that the authorities have granted full opportunity to the petitioner to participate in the enquiry and after noting the seriousness of charges recorded and proved, passed the impugned orders.

5. The learned counsel appearing for the petitioner mainly submitted that the victim/complainant was not conversant with Hindi and as she, in the cross-examination, admitted the said

position and therefore, phone recording, even if any, could not have been used against the petitioner. We have even gone through the conversation so recorded along with other documents which are placed on record. The said conversation, as translated in Hindi, even on merits, support the case of the respondents. We have noted that most of the proceedings were recorded in Hindi and signed by the parties. This is not the only reason which went against the petitioner as there are other substantial material and justification supported by the evidence of even the victim/complainant which, in our view is sufficient to maintain the reasoned order passed by the authority below. There are witnesses who support the case of the department. The material so placed on record justify the action so initiated, after giving the opportunity to the petitioner. The finding of facts so recorded, in our view, cannot be interfered with the Writ Jurisdiction. There is no perversity and or any illegality in the order so passed by the enquiry officer and maintained by the Appellate Authority so also the Revisional Authority. We are also convinced that the reasons given by the authorities are well within the framework of law and the record and therefore taking an over all view of the matter, the petition is dismissed.

6. This Court on 07-10-2013 granted ad-interim relief in

terms of prayer clause (d) and the same has been continued till this date. In addition by order dated 07th April 2014 we also directed to restore the water supply and electricity as the same were disconnected by the respondent as the matter was pending for admission. Therefore, in view of the rejection of the petition, we are not inclined to extend any further the protection so granted.

7. We are also inclined to observe that the petitioner, admittedly, is in occupation of Quarter No.355, Type 2-A, Nehru Nagar, Nashik Road, CISF Unit, Nashik since 07-10-2009, when his services came to be terminated. It is almost six years despite termination the petitioner is occupying the official quarter. In view of this a request made by the learned counsel appearing for the petitioner to permit the petitioner to occupy the premises for further three months cannot be granted, we however only as an indulgence, grant the petitioner four weeks time to vacate the premises by filing usual undertaking of himself and all family members also. However, this will be subject to payment of electricity and water charges which are still not paid by the petitioner to be paid within this extended period of four weeks.

(G.S. KULKARNI, J.)

(ANOOP V. MOHTA, J.)