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

+ W.P.(C) 102/2016

ANIRUDH RAI

..... Petitioner

Through : Mr. Kunwar Singh Ali, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through : Mr. Amrita Prakash, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

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ORDER
09.02.2016

1. The present of petition has been filed by the petitioner against the respondent/CRPF praying *inter alia* for issuing a writ of mandamus directing the respondents to convert the punishment of stoppage of future one increment with "cumulative effects" into stoppage of future one increment "without cumulative effect" inflicted on him, vide Office Order dated 9.10.2009, issued by the respondent No.3/DIG, CRPF, Agartala, Tripura.

2. Briefly stated, the facts of the case are that the petitioner had joined CRPF as an ASI (M) on 13.11.1992 and he is presently holding the post of a Sub Inspector (M) and is posted at GC, CRPF, New Delhi. When the petitioner was posted at Agartala, Tripura period between 19.8.2007 to 16.9.2010, he had claimed that he was suffering from Migraine and gone into depression and resultantly he remained absent for 530 days without taking leave. As a result, a departmental enquiry was initiated against the petitioner and vide report dated 24.9.2009, the Inquiry Officer had stated that the petitioner had proven his absence on medical grounds which was found to be correct in the light of the evidence produced by him. Dissatisfied with the report of the Inquiry Officer, respondent No.3 had conducted further inquiry and passed an order dated 9.10.2009 inflicting a punishment of stoppage of future one increment with cumulative effect against the petitioner, while regularizing the period of 530 days of absence on medical grounds.

3. Aggrieved by the order dated 09.10.2009, the petitioner had preferred an appeal before the respondent No.2/Inspector General of Police, CRPF, which was rejected vide order dated 19.1.2010. After his review petition came to be dismissed, the petitioner had filed a mercy appeal before the respondent No.4, which was turned down vide order

dated 12.9.2014. Aggrieved by the aforesaid rejection orders, the petitioner has filed the present petition praying *inter alia* that the punishment of stoppage of future one increment "with cumulative effect" inflicted on him may be converted into stoppage of future one increment "without cumulative effect".

4. It is not disputed by learned counsel for the petitioner that the respondent No.3 is well empowered to impose a punishment on the petitioner in accordance with the statute and the rules. The only ground taken by the petitioner in the present petition to assail the order dated 09.10.2009 is that the absenting period of 530 days having been regularized by the respondents, the petitioner ought to have been inflicted a lesser punishment.

5. While exercising powers of judicial review, the Court is not expected to substitute its opinion with that of the disciplinary authority insofar as the nature of punishment inflicted is concerned as long as the said punishment is within the parameters prescribed in the statute, not so excessive and disproportionate with the offence. Having regard to the fact that at the time of imposing the punishment, the respondents herein have taken a lenient view in respect of the petitioner owing to the long period of service rendered by him and further, they have taken into consideration the seriousness of his family problems, we are not

inclined to interfere in the punishment of stoppage of future one increment "with cumulative effect" as imposed on the petitioner while regularizing his absenting period of 530 days. Accordingly, the present petition is dismissed as being devoid of merits.

HIMA KOHLI, J

SUNIL GAUR, J

FEBRUARY 09, 2016

sk/rkb/ap