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

+ W.P.(C) 13526/2006

GAURI SHANKAR

..... Petitioner

Through : Mr. Tarun Diwan, Advocate with
petitioner in person.

versus

UNION OF INDIA & ORS

..... Respondents

Through : Dr. Ashwani Bhardwaj, Advocate

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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17.03.2016

1. The petitioner, who was working on the post of a Constable with the CRPF, has filed the present petition praying *inter alia* for quashing the order dated 20.8.2003, passed by the Disciplinary Authority inflicting upon him a penalty of dismissal from service w.e.f. 20.8.2003. The said dismissal order was upheld by the Appellate Authority, vide order dated 24.12.2003, and the revision petition filed by the petitioner against the order of the Appellate Authority was rejected, vide order dated 12.5.2004.
2. Counsels for the parties have handed over the written synopsis and exchanged copies thereof with each other.
3. We have perused the records and the evidence adduced before the Inquiry Officer and have also perused the report dated 21.3.2003 submitted by the Inquiry Officer, wherein he has opined that both the Articles of

Charges had been proven against the petitioner. The Inquiry Report is fairly detailed and has extensively referred to the testimonies of the six witnesses produced by the prosecution. The operative para of the Inquiry Report is reproduced herein below :

“6. In the light of the foregoing facts, I reach to the conclusion that No. 943323405 Ct.GD Gauri Shankar Bn65 CRPF during his functioning as member of the force has been found guilty of disobedience of orders/derelection of duty/slackness in discharge of duty and acts of misbehavior towards his senior officers.

under rule 11 (1) of CRPF Act, 1949 wherein on 17.3.2003 during course of checking by the IInd Commanding Officer in regard to security accompanied with other officer-DCO(Ops) and during course of checking of stand to practice Ct.GD Gaurishanker No. 943323045 went towards his morcha slowly and when Commanding Officer (IInd) and DCO(ops) asked to run and said why he was not running while going to his morcha. In disregard of the orders he shouted loudly saying” I am running, I am being oppressed and stand to was being ordered to practiced repeatedly” Even after pacifying him he was shouting. The DGP on hearing the noise came out of his office and asked the reason of noise. He instead of keeping quite kept shouting. When he did not stop shouting despite the directions to the contrary; the IInd Commanding officer ordered to co. Commanding to take away belt from Ct. Gauri Shanker. Getting provoked on this he unchained his rifle and kept the rifle on ground and went before the IInd Commanding Officer to handover the belt. Waving the belt before his mouth he said “aap Kya Kar loge Jyada se jyada belt hi loge; le lo yah belt aur tum ho kya” during this time the DCO standing there tried to intervene at which the said sepoy felt provoked and pushed the DCO(Ops) which act as per a disciplined force was punishable and as such sepoy G.D. Gaurishanker does not deserve his retention in a disciplined force.

7. *Whereas Ct/GD Gauri Shanker Bn65 of CRPF has been found fully guilty of the charges on the basis of the perusal of the statements of prosecution witnesses/documents and the enquiry report therefore in exercise of the powers conferred on me under rule 27(a) CRPF Regulations of 1955; I hereby impose penalty of dismissal from service on Ct/GD Gauri Shanker of Bn 65 CRPF and accordingly dismiss him from the services with effect from 20.08.2003. His period of suspension from 17.3.2003 to 20.8.2003 is regularized as intact and he will not be entitled of any other pay and allowances apart from what he had already drawn during his suspension period as subsistence allowance.”*

4. At this stage, counsel for the petitioner states, on instructions, that his client does not wish to press the present petition and instead, he submits that the petitioner, who is a resident of District Jalaun, UP and owns only two bighas of land, which he is jointly cultivating along with his four brothers, may be permitted to submit a representation to the respondents for grant of compassionate allowance as he has elderly parents to support, apart from his own family members, including a daughter of marriageable age and a son twelve years of age, who are still studying.

5. In view of the aforesaid submission, the present petition is disposed of as not pressed, with liberty granted to the petitioner to submit a representation to the respondents for seeking compassionate allowance.

6. Counsel for the petitioner states that the said representation shall be submitted to the competent authority within three weeks along with the relevant documents.

7. Upon receiving the said representation for compassionate allowance, the same shall be considered in the light of the financial and other attendant circumstances of the petitioner, as per law, by the competent authority and a

decision be taken within a period of twelve weeks, under written intimation to the petitioner.

8. If the petitioner is aggrieved by the decision that may be taken by the respondents, he shall be entitled to seek his remedies in accordance with law.

9. The writ petition is disposed of.

MARCH 17, 2016

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HIMA KOHLI, J

SUNIL GAUR, J

