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

+ W.P.(C) 8006/2016 & CM No. 33228/2016 (Exemption)

RAJIV RANJAN SINGH

..... Petitioner

Through: Mr. Anurag OJha & Mr. Gyanendra
Kumar, Advocates

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Dev P. Bhardwaj, CGSC along
with Mr. Anil Dabas Advocates for
respondent Nos. 1 to 5.
Mr. Sanjay Kumar for DMRC.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **09.09.2016**

1. The short question involved in this writ petition is, whether a full fledged enquiry is at all necessary for awarding a minor penalty to the writ petitioner.
2. Rule 37 of the Central Industrial Security Force Act, 1968 (CISF), which prescribes the procedure for imposing minor penalties is set out herein for convenience.

“37. Procedure for imposing minor penalties.-(1) No order imposing any of minor penalties specified in rule 34 shall be made except after-

(a) informing the enrolled member in writing of the imputations of misconduct or misbehaviour on which it is

proposed to be taken and giving him a reasonable opportunity of making such representation as he wishes to make against the proposal;

(b) holding an inquiry, if the disciplinary authority so desires, in the manner laid down in sub-rules (3) to (22) of rule 36;

(c) taking the representation, if any, submitted by the enrolled member under clause (a) and the record of inquiry, if any, held under clause (b) into consideration; and

(d) recording the findings on each imputation of misconduct or misbehaviour.

(2) Notwithstanding anything contained in clause (b) of sub-rule (1), if in a case it is proposed after considering the representation, if any, made by the Government servant under clause (a) of that sub-rule to withhold increments of pay and such withholding of increments is likely to affect adversely the amount of pension payable to the government servant or to withhold increments of pay for a period exceeding 3 years or to withhold increments of pay with cumulative effect for any period an inquiry shall be held in the manner laid down in sub-rules (3) to (22) of rule 36 before making any order imposing on the enrolled member of the Force any such penalty.

(3) The records of othe proceedings in such cases shall include-

(i) a copy of the intimation to the enrolled member so charged of the proposal to take action against him;

(ii) a copy of the statement of imputation of misconduct or misbehaviour delivered to him;

- his representation, if any;*
(iii) *the evidence produced during the enquiry, if any;*
(iv) *the findings on each imputation of misconduct or misbehaviour; and*
(vi) *the orders on the case together with the reasons therefore.”*

3. The requisites for imposition of minor penalty are that the concerned employee should be informed in writing of the imputations of misconduct or misbehaviour on which action is proposed to be taken, giving him a reasonable opportunity of making a representation, if he so wishes.

4. An enquiry may be held, but that is subject to the desire of the disciplinary authority. The holding of an enquiry is not mandatory.

5. There is no challenge to Rule 37 which enables the respondent authorities to dispense with an enquiry in case of imposition of a minor penalty.

6. The writ petitioner is alleged to have entered into arguments and a scuffle with a passenger travelling by Metro Rail, aged about 60 years.

7. The incident assumed proportions which required the intervention of senior officials of the Force. This is not seriously in dispute.

8. A show cause notice dated 19.03.2015 was issued to the petitioner to which the petitioner responded. After considering the response of the petitioner, an order dated 09.04.2015 was issued imposing on the petitioner the minor penalty of “censure”. The petitioner’s appeal and a revisional application against the order of punishment were rejected. Subsequently, however, a show cause notice dated 25.08.2015 was issued to the petitioner for enhancement of penalty. It was proposed to deduct three days’ salary of

the petitioner.

9. The petitioner also responded to the show cause notice. The main defence of the petitioner to the show cause notice was that the charges against him were deliberately exaggerated for extraneous reasons.

10. The main defence of the petitioner was that the passenger with whom the petitioner is alleged to have misbehaved, had denied the same by writing a letter dated 01.09.2015.

11. It is not necessary for this Court exercising its extraordinary writ jurisdiction to go to factual disputes. However, suffice it to note that there are discrepancies between the letter of the co-passenger written at a subsequent stage and the reply given by the petitioner himself which clearly gives rise to reasonable apprehension that the passenger concerned may have been persuaded to settle the matter.

12. Be that as it may, pursuant to the show cause notice, the petitioner was given a hearing. The contentions of the petitioner were considered. It cannot be said that there are no materials at all for proceeding against the petitioner. The adequacy of the evidence before the disciplinary authority which took the action against the petitioner is not to be examined in proceedings under Article 226 of the Constitution of India.

13. The show cause notice was for enhancement of punishment by deduction of three days' salary. Ultimately, minor punishment of deduction of only one days' salary was imposed. In our view there are no grounds for interference with the order of minor punishment imposed on the petitioner.

14. The writ petition is rejected. The pending application is disposed of.

CM No. 33227/2016 (stay)

Dismissed as infructuous.

INDIRA BANERJEE, J

V. KAMESWAR RAO, J

SEPTEMBER 09, 2016

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