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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5350/2015**

M K SINGH

..... Petitioner

Through : Ms. Ankita Patnaik and Ms. Garima
Sachdeva, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through : Sh. Dev. P. Bhardwaj, CGSC along with
Sh. Arvind Sharma, DC/BSF.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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07.01.2016

1. The petitioner's grievance is that the APAR grading of 4.63 recorded for the year 2011-12 is arbitrary.
2. The petitioner joined the Border Security Force (BSF) on 23.06.1997 and was promoted as an Inspector in November 2003 and as an Assistant Commandant on 28.04.2008.
3. The case before the Court is that for the period 2010-11, the APAR grading was 7.29 and for 2012-13, it was above 7.49. It is stated that given these circumstances, the solitary instance cited by his Reviewing Officer, i.e. that he avoided the responsibility when assigned the duty of leading the contingent for unit training team to CIJW, Vairengate, Mizoram is without substance and whimsical. Learned counsel submits that the petitioner was suffering from acute

chronic piles and had underwent treatment. He relies upon the appraisal by the Chief Medical Officer of the BSF itself, conducted on 11.10.2011, which is to the following effect:

“I.O.N.

Dated 11.10.2011

MEDICAL BRANCH UNIT HOSPITAL 87 BN BSF

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On perusal of the medical documents produced and on medical examination of the officer concerned it is found that he has been suffering from bleeding Piles (Haemorrhoids) for the last three years duration intermittently.

As per documents available he had been examined by the Surgical Specialist of District Hospital, Malda dated 10th Oct, 2011 and treated accordingly. He had been diagnosed as “FISSURE IN ANO WITH PERIANAL INFECTION” and is presently taking symptomatic treatment under Out-door patient department basis. As per prescription of the treating doctor he is being managed conservatively as surgical intervention may not be required urgently as condition is not very grievous. However, if condition does not improve after medications he may require to under Surgical intervention in due course of time.

*Submitted for your kind perusal and necessary action
pse.*

Sd/-

11/X/2011

(Dr. S.K. Singh)

CMO, 87 Bn BSF”

4. The respondents submit that the petitioner never made the

existence of the acute piles condition known and though his self-appraisal was agreed upon, the Reporting Officer had, besides the instance of the petitioner's refusal to lead the unit, also indicated his casual approach. In this regard, learned counsel for the respondents relied upon the entire record of the petitioner and stated that there were other instances where he displayed a casual approach. He particularly highlighted upon the lack of supervision over the process of destruction of cryptic records. Apparently, the petitioner along with ASI(Ciph) Manojit Devnath were detailed to ensure destruction of records. The petitioner merely signed off without actually ensuring that the documents were destroyed. These were brought to light subsequently and the petitioner given a warning.

5. This Court has considered the circumstances carefully. Whilst the medical records, especially the observations of the doctor cannot be disputed and are indeed not disputed by the BSF, what stands out is that the petitioner apparently suffered an acute condition of piles for three years. He does not appear to have disclosed this to the BSF at the material time even during the annual medical appraisals. He informed BSF about this when he was directed to lead the unit and he expressed his inability to do so. Naturally, this led to inconvenience and was reflected in his APAR by the reporting officer.

6. This Court sees no arbitrariness or lack of justification in recording such incident. An officer, aspiring for higher career levels is expected to disclose whatever is material and likely to impact in the performance of his duties. The nature of the ailment suffered by him was peculiarly known to him. His attempt to have it treated and not

disclose it ultimately led to a situation where the BSF had to perhaps deploy someone else at the eleventh hour. Coupled with this, his indifference in overseeing an important operation of destruction of crypto records was also commented upon adversely. That too has not been disputed. In these circumstances, this Court cannot take upon itself the role of an administrator and say that the omissions were not so serious or were too minor to be overlooked or say that the petitioner was justified in complaining that the APAR gradings were arbitrary.

7. For the above reasons, the Court is of the opinion that the petition is without merit. The writ petition is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

JANUARY 07, 2016
‘ajk’