

Mr. Balu Baburao Dhikle	}	Petitioner
versus		
Group Commandant (CISF)	}	
and Ors.	}	Respondents

Mr. D. P. Singh for the respondents.

DATED :- NOVEMBER 8, 2017

1. By this petition under Article 226 of the Constitution of India, the petitioner challenges an order dated 24th April, 2013 of the Inspector General, Central Industrial Security Force (CISF), Hyderabad passed in an appeal so also the order dated 19th November, 2012 of the Deputy Inspector General, CISF, Chennai. The challenge is also to an order dated 12th October, 2012.

2. These are orders passed in disciplinary proceedings. The case of the petitioner is that he was appointed as Head Constable in the force, namely, CISF. He was working with utmost sincerity, however, he was served with a charge-sheet alleging grave

misconduct on his part for an incident of 9th August, 2012. The allegation is that the petitioner, a member of the disciplined force, assaulted the Head Constable Gundappa with lathi and that caused injury to his left shoulder. This incident was stated to be committed in the barrack of the CISF unit. Mr. Gundappa had to be moved to an hospital and administered treatment.

3. Then, the allegation is that the petitioner was already awarded seven minor and three major penalties for various misconducts allegedly committed by him during his tenure. His conduct has not shown any improvement and therefore, taking an overall view of the matter and as the misconduct was proved, the inquiry officer recommended extreme penalty of dismissal from service.

4. That is how the report of the inquiry officer was presented before the disciplinary authority. The disciplinary authority complied with the principles of natural justice and imposed penalty of compulsory retirement from service with 2/3rd of pensionary benefits admissible under Rule 40 of the Central Civil Services (Pension) Rules, 1972.

5. Being aggrieved and dissatisfied with this order, the petitioner preferred an appeal on 19th October, 2012 to the

appellate authority. The appellate authority, after hearing the parties and a perusal of the record, agreed with the disciplinary authority. The appeal thus came to be dismissed.

6. Then, a revision application was preferred before the higher authority, namely, Inspector General, CISF, which has also been dismissed.

7. The only contention raised before us by Mr. Gite is that the punishment is entirely disproportionate and the petitioner was not treated fairly and reasonably, even though he was a member of a disciplined force, by his superiors. The superiors should have been careful and cautious when the petitioner was throughout being harassed by the said Gundappa. He was abused and threatened by Gundappa. Therefore, an FIR was lodged by the petitioner at Parvada Police Station. Mr. Gite would submit that instead of taking action against Gundappa for his provoking and continuously abusing and threatening the petitioner, the petitioner has been visited with this extreme penalty. In these circumstances, there was no need for the authorities to have done away with the petitioner's services. Secondly, the rules provide for a complete procedure and particularly ensuring that the inquiry officer complies with the principles of natural justice, fairness and equity. Even these rules have not been complied

with. Thus, on both grounds, the inquiry being vitiated, the impugned orders be quashed and set aside.

8. On a perusal of the entire writ petition and its annexures, we are not in agreement with Mr. Gite. Mr. Gite does not dispute that the CISF is a disciplined force. The members of such force are entrusted with a duty to safeguard and protect several industrial establishments and other units and places of national importance. In such a force, there was no scope for a person like the petitioner to exhibit a conduct not worthy and unbecoming of a member of such force. The charge was very serious in the sense the petitioner assaulted one Gundappa with lathi causing injury on his left shoulder. The said Gundappa had to be administered medical treatment at a hospital. Further, in his entire tenure, the petitioner was awarded 10 penalties for various misconducts. Three major and seven minor penalties did not result in any improvement in his behaviour, particularly with his colleagues.

9. The record indicates that the petitioner was treated with sympathy. The impugned orders categorically state and hold that at no stage the petitioner complained to his superiors about the conduct of the said Gundappa. The petitioner could not have taken law in his hands even if there was a provocation. If the said Gundappa was provoking and abusing him continuously and both

of them were in the same barrack, the petitioner could have requested for change of the barrack and possibly the superiors would have taken note of it had there been any serious incident involving the said Gundappa and the petitioner. It is the image, reputation and prestige of a disciplined force which is at stake. Its members are not expected to behave in this manner but maintain discipline and their conduct should be decent. This expectation from the members of the disciplined force has not been fulfilled and we do not see any reason to hold that the petitioner has been treated unfairly, unjustly or unreasonably. The petitioner's entire record was taken into consideration and it was found that his service record does not justify any leniency being shown to him. There were no mitigating circumstances. The incident being undisputed and even the record being as above, the authorities have rightly decided to compulsorily retire the petitioner, but at the same time protected some of the benefits. Thus, due note was taken of the services rendered by the petitioner to the force.

10. In writ jurisdiction, we do not function as an appellate authority or sit in judgment over such factual findings when they are not found to be perverse or vitiated by an error of law apparent on the face of the record. There is, therefore, no merit

in this writ petition and it is dismissed. There would be no order as to costs.

(SMT. BHARATI H. DANGRE, J.)

(S.C.DHARMADHIKARI, J.)