

\$~27

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 8999/2017 & CM 36821/2017
DINA NATH PATHAK Petitioner
Through: Ms.Nanita Sharma, Adv.

versus

UNION OF INDIA AND ORS Respondents
Through: Mr.Rajesh Kumar, Mr.Atul Krishna,
Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **13.10.2017**

Counsel for the respondents is present on advance notice and has submitted that the petitioner has an alternative remedy of Revision under Rule 54 of the Central Industrial Security Force Rules, 2001.

In the present case, the petitioner has suffered order of compulsory retirement from service with 75% pension and gratuity benefits. The primary case of the petitioner is that the punishment imposed is disproportionate to the charges alleged. The petitioner has also submitted that the charge was not proved for blood sample was not taken and level of alcohol was not ascertained.

The petitioner, it is apparent, had earlier approached the High Court of Judicature at Allahabad vide WP(C) no. 4720/2013 which was dismissed on the ground of lack of territorial jurisdiction by order dated 11th April, 2017. Now the petitioner has approached this Court by way of present writ

petition.

We have recorded the aforesaid facts as possibly the petitioner was not informed and made aware of the remedy under Rule 54 of the aforesaid Rules. The respondents also had not raise the said objection before the Allahabad High Court.

Considering the primary contention of the petitioner, we feel and observe that the petitioner should avail of alternate remedy by way of Revision under Rule 54 of the aforesaid Rules. The petitioner would be required to file an application for condonation of delay. We hope and trust that the authority would give due consideration to the fact that the petitioner had earlier approached the Allahabad High Court and has filed the present writ petition. The petitioner, apparently, was not aware and was not properly guided as the right to file the Revision.

Recording the aforesaid, we dispose of the present writ petition with liberty to the petitioner to file a Revision Petition.

We also clarify that we have not made any observation on merit.

In case of an adverse order, it will be open to the petitioner to challenge the order(s) passed by the Revisionary Authority as well as the impugned order in accordance with law.

SANJIV KHANNA, J

NAVIN CHAWLA, J

OCTOBER 13, 2017
umang