

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.1910 OF 2011

ORDER:

1. This writ petition is filed seeking to issue a writ of Mandamus declaring the penalty of compulsory retirement imposed by the 5th respondent, on the petitioner vide proceedings dated 25.9.2009, as contrary to Section 11(1) of CRPF Act, 1949, arbitrary and illegal, and to set aside the same.

2. Heard Sri Narender Pal Singh, learned Counsel for the petitioner and Sri K. Lakshman, learned Assistant Solicitor General and Sri S.S. Varma, Senior Panel Counsel for Central Government, for the respondents.

3. It has been submitted by the petitioner that penalty of compulsory retirement was imposed on him by the 5th respondent vide proceedings impugned after conducting a departmental enquiry under Section 11 (1) of CRPF Act, for the incident alleged to have taken place on 31.12.2008 obstructing Dy. Commandant V.K. Sinha of 'D' Company of 99 RAF/CRPF while he was ready to proceed to Police Superintendent Office, Kandhmal (Orissa), and that the

appeal preferred by him was rejected by the 4th respondent without any reasons.

4. It has been contended by the petitioner that Section 11(1) of the CRPF Act, is meant for awarding minor punishment, whereas while exercising the powers, the disciplinary authority without any application of mind and even though the charge is not so serious, imposed punishment of compulsory retirement. Further, it has been contended by the petitioner that the disciplinary authority has not conducted enquiry in accordance with CRPF Standing Order No.20/2002, Rule 14 of CCS CCA Rules and Rule 27 of CRPF Rules and therefore, the whole enquiry becomes void.

5. Sri S.S. Varma, learned Counsel contended that the petitioner submitted application for sanction of 30 days of E.L. and insisted the Deputy Commandant for sanction of leave obstructing him from proceeding further in discharge of his duties, and that the misconduct of the petitioner in obstructing the senior officer from discharging his duties is serious in nature and in the departmental enquiry, the charge was proved and therefore, the punishment of compulsory retirement was imposed. He further contended

that the delinquent can be awarded punishment of compulsory retirement from service when he was charged under Section 11 of CRPF Act and there was no force in the contention of the petitioner in this regard. He further contended that the petitioner tried to mislead this Court by quoting wrong and irrelevant standing orders and that the departmental enquiry against the petitioner was conducted under Rule 27 of CRPF Rules, but not under Rule 14 of CCS CCA Rules. He further contended that the petitioner has not availed remedy which is available under Rule 29 of CRPF Rules, 1955 and on this ground alone, the present writ petition is liable to be dismissed.

6. This Court has considered the rival submissions made by the parties and the material available on record. The petitioner could not point out any irregularities on the part of the respondents in imposing the punishment of compulsory retirement. Apart from that, the petitioner failed to establish that the respondents committed procedural irregularities and denied principles of natural justice. The respondents have imposed punishment of compulsory retirement for the proven misconduct in the enquiry. Considering the gravity of the charge proved, this Court is

of the view that no illegality has been committed by the respondents in imposing the punishment of compulsory retirement. Insofar as the contention of the petitioner that the procedure was not followed by the respondents while imposing penalty of compulsory retirement, is concerned, the petitioner failed to controvert the reply given by the respondents in their counter in this regard. Since no ground is made out to interfere with the punishment of compulsory retirement, this Court is not inclined to interfere with the same.

7. Accordingly, the Writ Petition is dismissed. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 23rd November, 2018.
Nn.

HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI



23/11/2018

Nn.