

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

Date of Order: May 07, 2018

+ **W.P.(C) 4804/2018 & CM 18481/2018**

KRISHAN Petitioner
Through: Mr. Yogesh Kumar Mathur,
Advocate

Versus

MANAGER CANARA BANK AND ORS.Respondents
Through: Mr. Rajesh Kumar Gautam,
Advocate

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Petitioner is an Ex-serviceman, who was posted as Armed Guard in respondent-Bank on 23rd January, 2015. On the charge of assaulting Senior Manager of respondent-Bank, petitioner was departmentally tried. Disciplinary Authority vide impugned order of 8th December, 2015 had imposed punishment of *'stoppage of two increments without cumulative effect*

2. *t'* while relying upon Regulation 4 (f) of *Chapter XI of Canara Bank Service Code* and the period of suspension was directed to be treated as *'not spent on duty'* for the purpose of grant of increment. In the appeal (*Annexure P-3 colly.*), the stand taken by petitioner was as under:-

"(1) The punishment of stoppage of two increments without cumulative effect has the effect to crush me

financially. I was already under suspension for a period of around 6 months which has caused an immense financial hardship.

(2) I do not desire to digress in the matter. In view of submission made by me during the personal hearing, which was held on 21st Nov 2015.

(3) The imposed punishment will be too larger burden to carry. ”

3. Vide Appellate Order of 10th January, 2017 (*Annexure P-2 colly.*), the appeal preferred by petitioner stood dismissed while noting that punishment imposed is commensurate with the charge established against him in the inquiry.

4. The challenge to order of Disciplinary Authority as well as Appellate Authority by learned counsel for petitioner is on the ground that there is no eye-witness to this incident and infact, petitioner had objected to smoking by complainant in the canteen and as per complainant's medical slip (*Annexure P-7*), there is no external injury nor is there any reference of assault. Thus, it is submitted on behalf of petitioner that impugned orders deserve to be set aside.

5. On the contrary, learned counsel for respondents supports impugned orders and draws attention of this Court to '*proceedings of personal hearing*' (*Annexure P-6*) granted to petitioner and submits that petitioner has admitted this incident and so, penalty inflicted upon petitioner is justified.

6. Upon hearing and on perusal of impugned orders and the material on record, I find that happening of the incident in question is not disputed by petitioner when personal hearing was afforded to him. It is so evident

from '*proceedings of personal hearing*' (Annexure P-6). Relevantly, the '*proceedings of personal hearing*' (Annexure P-6) have been signed not only by petitioner but also by his representative, who had defended him in the inquiry. It was clearly stated by petitioner, when personal hearing was afforded to him that the unfortunate incident had happened on the spur of the moment and he regretted it while assuring that it will not happen in future. Apart from this, even in appeal (Annexure P-3 colly.) preferred by petitioner, he has reiterated the afore-referred stand taken by him in the proceedings of personal hearing. In such a situation, reliance placed by petitioner's counsel upon complainant's medical slip to assert that there was no bleeding injury, is of no consequence. No plausible reason is forthcoming as to why complainant would falsely implicate petitioner. In fact, petitioner's aforesaid plea remains unsubstantiated.

7. In the facts and circumstances of this case, I find that the penalty imposed upon petitioner is commensurate with the misconduct committed by him. In the considered opinion of this Court, impugned orders do not suffer from any vice of arbitrariness nor can it be said that the impugned orders are capricious.

8. This petition and the application are accordingly dismissed.

(SUNIL GAUR)
JUDGE

MAY 07, 2018

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