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

+ **W.P.(C) 6771/2017**

SOLANKI GIRISH

..... Petitioner

Through: Mr. Vishal Chaudhary, Advocate

versus

UOI

..... Respondent

Through: Mrs. Bharathi Raju, CGSC with
Mr. Devender Singh, AC/CISF.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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02.04.2018

1. The petitioner, working on the post of a Constable in the respondent/CISF, is aggrieved by the order dated 25.08.2015, passed by the Assistant Commandant, imposing a punishment of fine equivalent to one day's salary on him on account of his failure to chain his rifle, as noted during an inspection conducted on 11.08.2015. The petitioner is also aggrieved by the order dated 26.09.2015 passed by the Senior Commandant, dismissing his appeal against the order dated 25.08.2015 passed by the Disciplinary Authority and the order dated 22.02.2016 passed by the Revisionary Authority, upholding the punishment imposed on him by the Disciplinary Authority.

2. The brief facts of the case as gleaned from the record is that on 01.09.2012, the petitioner was posted at Delhi and he joined CISF Unit, at

Red Fort, from where he continued to discharge his duties. On 14.08.2015, a Memo was issued to the petitioner with the following charges:-

“Force No.101220158 constable/G.D. Greesh Solanki was appointed on 11.08.2015 in A shift from time 0600 hours to 1300 hours at Battery -6 with weapon for duty. By the Assistant Commandant unit Red Fort Delhi at time about 0740 hours on checking battery 6 duty post it was found that by the member of the force the chain of the rifle was not tied with the belt and the chain was wrapped with the rifle. Even when by the senior officers clear order has been given that always the chain of the weapon as they have been taught in that manner shall be tied with their belt.”

3. As noted above, the Memo dated 14.08.2015 was issued to the petitioner was on account of his failure to chain his rifle with his belt as noted during an inspection conducted on 11.8.2015. The petitioner submitted a reply to the aforesaid Memo on 21.08.2015. Though the said reply is not on record, his pleas have been noted in the order dated 25.08.2015 passed by the Disciplinary Authority, which are as below:-

“3. That in the reply of the memo/charge sheet the above force member had shown that on 11.08.2015 at time 06:00 hours to 13:00 hours he was posted in first shift on duty in battery-6 at time about 07:40 hours Assistant Commandant came to my duty place in civil dress doing morning walk. On coming on Assistant Commandant the force member has given him proper respect, but on the contrary by the Assistant Commandant he has pulled the chain of the force member because of which the hook of the belt was open and chain came out. Force member has done the safety of the rifle immediately. Beside this by the force member this has been shown that under rule 37 of CISF rule 2001 in wrong manner by giving memo the discipline action has been taken and the rules and laws has been misused

and the powers given by the Govt. has been used in wrong manner. The force member is deliberate harassed because of which force member is going through mental harassment.”

4. The said reply was duly considered by the Disciplinary Authority, who passed the order dated 25.08.2015, observing as follows:-

“4. The undersigned this matter in the capacity of being competent discipline officer had examined the memo letter No.2549 dated 14.08.2005 issued to the accused forced member, the reply to the memo given by him representation dated 21.08.2015 was examined. On 11.08.2015 the force member was appointed in first shift for duty at battery -6 from time 0600 hrs to 1300 hours then at time about 07:40 hours by assistant commandant sudden checking was got done and it was found that by the force member the chain of the weapon was not tied with his belt and the chain of the weapon was tied around the rifle. In this regard the force member had stated that by the Assistant Commandant the chain of the force member has been snatched therefore the hook of the belt was open and chain came out this does not appear to be correct because at the time of posting on the duty in briefing it is told that all the force member will keep their weapon tied in proper manner with the belt which was not done by him in proper manner and the chain of the rifle came out of the belt and any antisocial element could have taken advantage of it by the force member in the reply of the charge sheet this has been shown that all this is being done deliberately to harass him because of which his going through mental harassment is completely wrong and baseless by the force member during the duty not tying his rifle with the belt could have been reason for any kind of unwanted incident and because of 15th August, there was high alert even when in the soldier seminar/unit regimental duty and shift briefing at that time clear direction/instruction has been passed that any force member during this duty will keep chain of his rifle tied of his belt but on the contrary by the force member his weapon is not tied is not belt. This kind of act done by the force member can cause any kind of unwanted incident. This kind of act shows

gross negligence and indiscipline towards his duties and responsibilities. Therefore, against the force member under memo letter No.V-15015/CISF/RED FORT/ANU/SO/G/2015-2549 dated 14.08.2015 the alleged charges are completely proved.

5. Therefore in the light of the above conclusion and on it basis against the accused force member due to finding of the alleged charges I in this matter in the capacity of being competent disciplinary officer using the powers provided in rule 32 schedule -1 of CISF rule 2001 I am passing the order of punishment two pay fine equivalent to 01 (one day) salary to force member K101225158 constable /GD Grees Solanky.”

5. Aggrieved by the aforesaid order, the petitioner preferred an appeal before the Senior Commandant, denying the charges levelled against him. A copy of the said appeal has not been filed by the petitioner. However, after noting the submissions made by the petitioner in the order dated 26.09.2015, the Appellate Authority rejected the said appeal while upholding the penalty imposed on the petitioner by the Disciplinary Authority of deduction of one day's salary.

6. The petitioner preferred a revision petition against the aforesaid order, wherein he denied the entire incident and alleged that the Memo was issued to him on the basis of a false story. The said revision petition came to be dismissed by the Revisional Authority vide order dated 22.02.2016 with the following observations:-

“5. That after doing comparative examination and comparison of all the documentary evidence and facts available on the file and the argument presented by the petitioner, this is found that force No.101220158, constable/G.D. Girish Solanki was posted on 11.08.2015 in A shift from 06:00 hours to 13:00 hours at

battery-6 with weapon for duty. By the Assistant Commandant the force Delhi at time about 06:00 hours battery 06 duty post was checked and on checking by the force member the chain of the rifle was not tied of the belt and chain was wrapped around the rifle. The petitioner has mainly pointed out in special manner contradiction in detail of charges shown in Rojnamcha serial No.486 dated 11.08.2015 and charge sheet, final order and order in appeal and some typing mistake in order in appeal in his petition. Even when he was aware that he was posted in sensitive unit like Redfort and on 15th August, in redfort due to special function of independence day high alert was declared even then the force member has committed negligence with his weapon and had made allegation on checking officer and senior commandant. It was duty of the petitioner that he should have tied the chain of the weapon with the belt in the manner teach to him and he should have perform his duty with vigilance but he has not done so. The petitioner with his revision petition has not put any such fact which he prove that he is innocent.

6. Therefore by the undersigned using the power given by rule 54 of CISF regulations 2001 I reject on merits the revision petition dated 26.11.2015 file by the petitioner and I keep intact the punishment as it is given to the force No.1011220158 constable/G.D. Girish Solanki CISF unit redfort, Delhi by the disciplinary officer vide final order No.D-15015/CISF/Redfort/ANU/SOG/2015-2718 dated 26.08.2015.”

7. Aggrieved by the aforesaid order, the petitioner has filed this petition stating *inter alia* that what has been recorded in the *Rojnamcha* is contrary to the real position and the same demonstrates *malafides* on the part of the respondent. It is noteworthy that the *Rojnamcha* dated 11.08.2015 has recorded at Sr.No.486, that when the petitioner was checked, it transpired that he had not tied the chain of his rifle to his belt and two buttons of his shirt were also unbuttoned. Counsel for the petitioner contends that as against the aforesaid observations recorded in the *Rojnamcha*, the Memo

issued to the petitioner only mentioned that the chain of the petitioner's rifle was not tied with his belt and the said chain was wrapped with the rifle. He submits that no mention was made in the Memo with regard to the two buttons of the petitioner's shirt remaining unbuttoned.

8. We find no force in the aforesaid submission. Non mentioning of the unbuttoning of two buttons of the petitioner's shirt in the Memo is hardly of any significance. An inspection was conducted by the Assistant Commandant, on 11.8.2015, which was on the eve of the Independence Day when security considerations were considerably high and the petitioner and other force personnel were expected to be on high alert. This aspect was highlighted by the Disciplinary Authority while passing the impugned order dated 25.08.2015. The negligence on the part of the petitioner as stated in the Memo issued to him had weighed with the Disciplinary Authority who has imposed a minimal punishment of fine equivalent to one day's salary on the petitioner.

9. The next contention of the counsel for the petitioner is that the entire incident narrated in the Memo issued to the petitioner, is false and concocted and the said incident never took place. We are afraid, disputed questions of facts cannot be adjudicated in a petition filed under Article 226 of the Constitution of India, the scope whereof is limited to examining the validity and legality of the orders passed by the respondent. It is not for this court to conduct a fresh inquiry on the nature of charges levelled against the petitioner.

10. For the aforesaid reasons, we do not find any illegality, arbitrariness and perversity in the orders passed by the Disciplinary Authority and upheld by the Appellate Authority and the Revisional Authority. In any case, the

petitioner has been let off lightly for the charges levelled against him. The petition is accordingly dismissed as meritless. No orders as to costs.

HIMA KOHLI, J

PRATIBHA RANI, J

APRIL 02, 2018

rkb/ap/na

