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

+ **W.P.(C) 691/2018**

CT/GD SRINIVAS GALI

..... Petitioner

Through: Mr. Subhasish Mohanty, Advocate.

versus

CENTRAL INDUSTRIAL SECURITY FORCE AND ORS.... Respondents

Through: Mr. Vivek Goyal, CGSC with Mr.
S.S. Singh, SI/Exe/CISF.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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13.12.2018

1. The affidavit explaining the delay in approaching the Court has been tendered in Court. It is accepted. Consequently, the counter affidavit already filed by the Respondents is taken on board.

2. As far as the merits of the case is concerned, it is seen that the Petitioner while working as a Constable in the CISF was found on 29th January, 2014 not in his bed at 10.10 pm and this led, according to the Respondents, the Petitioner misbehaving by “creating ruckus” when he was questioned about his not being in the bed. According to the Petitioner, however, he had a call from his father which he was attending and that his father was unwell at that time.

3. As a result of the enquiry, the Petitioner has been awarded the punishment of “reduction of pay by one stage from Rs. 8760+2000 (G.P) to Rs. 8440+2000 (GP) in the time scale of pay for a period of one year with effect from the date of issue of the order” with a further order that the “Petitioner will in not earn the increment of pay during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay.”

4. The Court is of the considered view that given the misconduct for which the Petitioner was charged and which charge is held proved, the penalty inflicted on the Petitioner is disproportionate. A factor that weighs with the Court in coming to the conclusion is that since his joining the CISF in 2006 the Petitioner has had no instance, prior to this one, of any misconduct. Even in the counter affidavit of the Respondents there is nothing stated to the contrary.

5. Accordingly, the Court sets aside the impugned order dated 19th November, 2015 issued by the Revisional Authority as well as the order dated 23rd April, 2015 passed by the Appellate Authority (AA) which affirm the order passed by the Disciplinary Authority dated 9th October, 2014 inflicting the above penalty on the Petitioner. The Court directs the AA to once again consider the appropriate penalty to be inflicted upon the Petitioner in view of the above facts and circumstances and pass a fresh reasoned order on that aspect within a period of four weeks from today.

6. The fresh order of the AA shall be communicated to the Petitioner within two weeks thereafter. If the Petitioner is aggrieved by the said order, it will be open to the Petitioner to seek all appropriate remedies that are available to him in law.

7. The petition is disposed of in the above terms.

8. Order be given *dasti* under the signatures of the Court Master.

S.MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 13, 2018

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