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

+ **W.P.(C) 1549/2007**

LNK DALBIR SINGH Petitioner
Through Mr. Tarjit Singh, Advocate

versus

UOI & ORS. Respondents
Through Ms. Barkha Babbar, Advocate for
Respondent No.1/UOI

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE SANJEEV NARULA

% **ORDER**
06.03.2019

CM Appl.No. 45825/2017 (delay)

1. For the reasons stated in the application, the delay of 589 days in filing the application for restoration is condoned and the application is disposed of.

CM Appl.No. 45824/2017 (restoration)

2. The order dated 18th March, 2016 is recalled and the writ petition is restored to its file. The application is disposed of.

WP(C) No. 1549/2007

3. The challenge in this writ petition *inter-alia* is to an order dated 18th March, 2003 passed by the Summary Security Force Court ('SSFC') holding the Petitioner guilty of the charge of assaulting and threatening to kill his superior, one Sub Inspector Khairati Lal, and inflicting upon him the sentence of dismissal from service. The challenge also is to an order dated 23rd December, 2003 passed by the Director General whereby his statutory

appeal against the above sentence was rejected.

4. Without entering into the merits of the order and sentence awarded by the SSFC at this stage, the Court would like to advert to the order dated 23rd December, 2003 passed by the Director General dismissing the Petitioner's appeal. The said order as communicated to the Petitioner reads as under:-

“Please refer to your- Statutory Petition dated 8/8/2003 addressed to DG BSF against your conviction by Summary Security Force Court (SSFC) trial held w.e.f. 17/3/2003 to 18/3/2003.

2. The issue raised in your petition have been considered very carefully in the light of relevant records, legal provisions and evidence in SSFC trial proceedings. After a detailed consideration and careful scrutiny of all facts and circumstances of the case, the worthy DG has rejected the petition being devoid of merits.”

5. When counsel for the Respondent was enquired whether this is, in fact, the order that was passed in the appeal against the dismissal order of the SSFC, she volunteered that perhaps the file would contain the reasons for the above order was in the file but not communicated to the Petitioner.

6. The fact of the matter is that as far as the Petitioner is concerned, the order communicated to him by the Appellate Authority contains no reasons whatsoever except to state that after detailed consideration the DG has rejected the Petitioner's appeal as being 'devoid of merits'. To say the least the disposal of a statutory appeal by the authority vested with the power under the BSF Act has to be by a reasoned order. Without reasons for the conclusion arrived at, the person affected is deprived of an effective opportunity to challenge that order.

7. On this short ground therefore, the Court sets aside the Appellate order dated 23rd December, 2003 and remands the Petitioner's appeal to the Appellate Authority for a decision *de novo* without being influenced by the order dated 23rd December, 2003 which has been set aside by this Court. The fresh order on the Petitioner's appeal which will be a reasoned one will be communicated to the Petitioner not later than eight weeks after the receipt of this order by the Appellate Authority.

8. If the Petitioner is aggrieved by such order, it will be open to him to seek appropriate remedy in accordance with law.

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

10. A copy of this order be given *dasti* to the parties under the signatures of Court Master.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

MARCH 06, 2019

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