

\$~2

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

+ **W.P.(C) 3179/2017**

KARAN SINGH

..... Petitioner

Through: Mr. Manoj V. George with Ms. Shilpa
Liza George, Mr. Renjit V. Philip and
Ms. Bhavika, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Vinod Diwakar, CGSC with
Mr. Vishal K. Singh and Mr.
Abhishek Bhati, Advocates.

CORAM:

JUSTICE S. MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

%

04.12.2019

1. The Petitioner, a former Constable with the Central Industrial Security Force ('CISF'), has filed this petition challenging an order dated 17th April, 2015 passed by the Director General ('DG'), CISF compulsorily retiring him from service together with full pension and gratuity as admissible to him as per rules. He has also sought the setting aside of an order dated 30th June, 2015 by the Deputy Inspector General ('DIG') whereby his appeal against the order of the Disciplinary Authority ('DA') was dismissed.

2. The Petitioner joined the CISF as Constable on 12th March, 1982 and was promoted as Head Constable on 17th April, 1998. On 21st August, 2006 he was sent on deputation to the Central Bureau of Investigation ('CBI') as Head Constable ('HC'). According to the Petitioner, while serving in the

CBI, he was, on 17th April, 2008, promoted as Assistant Sub Inspector ('ASI'). Meanwhile, his deputation in the CBI continued and the Petitioner applied for absorption in the CBI.

3. On completion of his deputation in the CBI, an office order dated 22nd August, 2013 was issued repatriating him to the CISF and requiring him to report at the CISF Headquarters, New Delhi. By an order dated 16th September, 2013, the Petitioner was posted to the Eastern Zone and was allotted to the CISF Unit, PTPS, Patratu. However, the Petitioner did not report to the aforementioned CISF Unit after his repatriation from the CBI.

4. By an order dated 21st January, 2014 the Petitioner's posting was amended to the CISF Unit, RCFL, Mumbai. The Petitioner did not report here as well. Thereupon, disciplinary action was sought to be initiated against the Petitioner and a recommendation was sent to this effect by the Force Headquarters on 22nd January, 2014.

5. Meanwhile, the Petitioner challenged his repatriation order by filing O.A. No. 3152/2013 in the Central Administrative Tribunal ('CAT'), Principal Bench. The application was dismissed as withdrawn on 1st October, 2013. A Review Application No. 151/2013 for review of the said order was also dismissed by the CAT. A second Review Application No. 174/2013 was filed on 11th November, 2013, wherein an order was passed by the CAT giving opportunity to the Petitioner to make a representation to the CBI with regard to his absorption. The CBI by a letter dated 12th February, 2014 informed the Petitioner that his request for absorption had been rejected.

6. Directions were sent by the CISF by way of a letter dated 22nd April, 2014 to the Petitioner on his home address to report for duty at the CISF Unit, RCFL, Mumbai immediately. However, the Petitioner still did not report for duty. This resulted in the initiation of disciplinary proceedings against the Petitioner under Rule 36 of the CISF Rules, 2001 for failing to report to the CISF Unit and disobeying the orders of the highest authority, thereby being negligent towards his duties and tarnishing the image of the CISF Unit. Meanwhile, a third call up notice was sent to the Petitioner's home address by a letter dated 20th November, 2014 and yet the Petitioner did not report for duty. The Petitioner also did not join the enquiry proceedings held on 1st and 2nd December, 2014. The enquiry was completed *ex parte*. The Enquiry Officer (EO) submitted his report to the DA i.e. Senior Commandant, CISF Unit with the charges having found to be proved.

7. The aforementioned charge was held by the EO to be proved. Thereafter, the DA by the first impugned order dated 17th April, 2015 awarded the Petitioner the aforementioned penalty of compulsory retirement from service with full pension and gratuity is admissible as per rules. This was upheld by the Appellate Authority by the second impugned order dated 30th June, 2015.

8. Learned counsel for the Petitioner submitted that at one stage an interim order was passed by the CAT that the repatriation of the Petitioner to the parent cadre would be subject to the outcome of the proceedings. According to him, the Petitioner misunderstood the scope of the said order and shied away from reporting for duty. He was acting under the bona fide belief that

he need not report back to his parent department as a result of the above order passed by the CAT in Miscellaneous Application No. 1136/2014. According to him, he received legal opinion from the counsel representing him in the CAT that his reporting back to his parent department would prejudice his case and render it infructuous.

9. The Court is unable to accept the above submission. As a member of a disciplined force like the CISF, the Petitioner was fully aware of what it meant to not report for duty despite repeatedly being sent notices for that purpose. Once the deputation at the CBI came to an end, the Petitioner was duty bound to report for duty at the place of his posting upon such repatriation.

10. The aforesaid interim order of the CAT reads as under:

“Heard learned counsel for the applicant who has drawn our attention to the prayer made in the MA to this effect that repatriation shall be subject to the outcome of OA. Counsel for the Respondents states that he has no objection to the same. MA No. 1136/2014 stands disposed off accordingly.”

11. By no stretch of imagination can the above order be read to permit the Petitioner to stay away from duty. On the other hand, it is a refusal of stay of repatriation making it incumbent on the Petitioner to report for duty. The excuse given by the Petitioner for not reporting for duty is, therefore, unacceptable, and is rejected.

12. Learned counsel for the Petitioner then submitted that the punishment awarded was disproportionately high. The Court is unable to accept this plea

either. It must be recalled that once the deputation with the CBI came to an end and by an order dated 22nd August, 2013, he was asked to report back to his parent cadre, the Petitioner simply did not report for duty without any justification. This continued even till the date of his compulsory retirement by the order passed by the DA. He did not even participate in the enquiry. This conduct of the Petitioner was again unbecoming of a member of a disciplined force and cannot be viewed upon favourably.

13. In the circumstances, the punishment awarded to the Petitioner, viz., compulsory retirement with full pension and gratuity as per the rules can hardly be said to be disproportionate.

14. There is no merit in this petition and it is hereby dismissed. No costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

DECEMBER 04, 2019

tr