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

+ **W.P.(C) 8549/2017**

K. N. SINGH

..... Petitioner

Through: Mr. Vijay Pal Sharma & Mr. Santosh
Kumar Sahu, Advocates

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr. Anurag Ahluwalia, CGSC for
Respondent/UOI.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE I.S.MEHTA

ORDER

10.04.2019

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1. The Petitioner who is at present a Constable/General Duty (CT/GD) with the Central Reserve Police Force (CRPF) seeks setting aside of an order dated 9th January, 2013 passed by the Commandant 6th Battalion, whereby he was awarded the penalty of reduction of pay by one stage for the period of one year together with a further direction that he would not earn increments during such reduction and that the reduction would have the effect his postponing his future increments.

2. The brief facts are that the Petitioner was posted at CRPF 6th Battalion RB. Deoli. On 22nd May, 2012 the Petitioner was chargesheeted for two charges. The first charge was that he used abusive language against the Commandant while he was on duty on 28th April, 2012 when Head

Constable Bindu questioned him as to why he could not sent the message register to the Control room. Charge No.2 was about the Petitioner having gone to the residence of the said HC and threatening her to change a statement. However, this charge no.2 was trooped in the inquiry.

3. As far as charge no.1 is concerned, the Inquiry Officer found the charge No.1 was proved in view of the statements of the concerned HC herself. The said report was accepted by the disciplinary authority (DA) who proceeded to pass the impugned order in effecting the above punishment. Having heard learned counsel for the Petitioner and having examined the inquiry report, this Court is not persuaded to interfere with the finding of the inquiry officer about the guilt of the Petitioner as regards the above charge.

4. However, on the issue of the proportionality of the punishment awarded to the Petitioner, the Court finds that the justification provided by the DA and the Appellate Authority for retaining the punishment which appears to harsh, is not very convincing. While this is true that using of ‘undignified language’ towards a senior officer was not acceptable, the reasons for the harsh punishment for such misconduct are not forthcoming. Even in the reply filed in the present petition, no past instances are referred to which would justify that a severe punishment should be given for this misconduct.

5. While this Court would normally not like to interfere with the penalty, in the present case the disproportionate punishment for the misconduct done is such that it constrains the Court to modify it and make it commensurate with the misconduct for which the Petitioner has been found guilty.

6. Consequently, the impugned order of the DA and the Appellate and the Revisional orders confirming the said order are modified by the directing that the punishment awarded to the Petitioner would be restricted to reduction of pay by one stage from Rs. 10220 plus GP 2800 to 9840 plus 2800 in the time scale of 5200-20200 plus GP 2800 (pay band-I) for one year. The further punishment that he would not earn increment during such reduction which would also result in the postponement of his future increments is hereby set aside.

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

S. MURALIDHAR, J.

I.S. MEHTA, J.

APRIL 10, 2019

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