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

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**W.P.(C) 10715/2017**

CONST. SHARWAN KUMAR

.... Petitioner

Through: Mr. K.K.Jha, Advocate

versus

INSPECTOR GENERAL, CISF AND ORS.

..... Respondents

Through: Mr. Arun Bhardwaj, Mr. Nikhil  
Bhardwaj with Mr. Gajendra Singh,  
Advocates.

**CORAM:**

**JUSTICE S.MURALIDHAR**

**JUSTICE I.S.MEHTA**

**ORDER**

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**11.04.2019**

1. Constable Sharwan Kumar who is with the Central Industrial Security Force (CISF) Unit 8<sup>th</sup>, RB, Jaipur has challenged an order dated 7<sup>th</sup> October, 2016 passed by the Revisional Authority (RA) dismissing the revision petition against the order of the Appellate Authority (AA) which had modified the order of the disciplinary authority (DA) dated 23<sup>rd</sup> October, 2015 holding the charge against the Petitioner proved and imposing the penalty of reduction of pay by one stage for one year with immediate effect with the further direction that he would not earn increments of pay during the period of reduction and that the expiry of period, the reduction would have the effect of postponing his future increments of pay.

2. The article of charge was that on 6<sup>th</sup> February, 2015 at about 2145 hours at the CISF Unit IOC Panipat, the Petitioner indulged in “heated argument with Constable/GD Ravi Bhatt and Constable/GD Munesh Kumar of CISF Unit IOC Panipat and “exchanged derogatory, filthy and abusive language against each other.” Initially, there was a verbal altercation that took place, which led to manhandling and scuffle. It is further noted that

“during the scuffle which had ensued, Constable /GD Ravi Bhatt pulled the black coloured thread, worn by the petitioner upon his/neck causing a red injury mark around his neck and Constable/GD Munesh Kumar also joined in the scuffle with Constable/GD Ravi Bhatt who suffered on injury on his thumb. The petitioner had thereafter hit the head of Constable/GD Munesh Kumar with a brick, inflicting injury which caused bleeding.”

3. It appears that the above incident was accepted by the Petitioner himself in his defence statement. It was accordingly held in the departmental inquiry that the charge levelled against the Petitioner was proved beyond reasonable doubt.

4. The RA noted that the AA had reduced the penalty imposed by the DA of reduction of pay band by two stages for a period of two years to reduction of pay band by one stage for a period of one year.

5. Learned counsel for the Petitioner at one stage submitted before this Court that under the CISF Act and Rules thereunder there is no definition of ‘misconduct’. Relying on the judgment of the Supreme Court in ***A.L. Kalra vs. Project and Equipment Corporation of India Limited 1984 (3) SCC 316*** it was sought to be contended that unless the charge clearly amounted to

‘misconduct’ as specified in the applicable rules, the enquiry itself would be bad in law. It is submitted that in the present case since the misconduct with which the Petitioner was charged was not defined as such under the CISF Act or CISF Rules, the entire inquiry itself was vitiated.

6. Before this Court at one stage when the matter was listed on 16<sup>th</sup> October, 2018 the Petitioner claimed that one Mr. Phool Singh had filed a similar case in WP (C) No.11688/2016 and the said petition had already been admitted. The Petitioner was asked to produce the pleadings of the said writ petition. He has done so. However, given the facts of the present case, the Court does not consider it necessary to await the judgment in the aforementioned case.

7. Rule 77 of the CISF rules reads as under:-

“77. Other conditions of service.- The members of the Force shall, in respect of all matters regarding conditions of service for which no provision or insufficient provisions have been made in these rules be governed by the rules and orders for the time being applicable to officers holding corresponding posts in the Central Government in respect of such matters.”

8. Therefore, as rightly pointed out by the counsel for the Respondents it is the CCS (CCA) rules that would apply in the present case. The contention of the Petitioner that the acts alleged to have been committed by the Petitioner would not amount to ‘misconduct’ will not hold good for the simple reason that even if the CISF rules were silent on this aspect, the CCS (CCA) rules would apply.

9. CISF is a para-military force. The charge against the Petitioner is not one of mere verbal altercation with colleagues but actual physical assault by the Petitioner of another colleague. The Court has no hesitation in concluding that even if this Act is not precisely defined as misconduct under the CISF Act or Rules, under Rule 77 of the CRPF Rules, the Petitioner could certainly have been proceeded against for disciplinarily for the said misconduct. The punishment given cannot also be said to be disproportionate. Moreover, the AA has in the facts and circumstances explained by the Petitioner reduced the penalty awarded by the DA in the manner noticed hereinbefore.

10. The Court finds no merit in this petition and it is dismissed as such.

**S. MURALIDHAR, J.**

**I.S. MEHTA, J.**

**APRIL 11, 2019**

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