

\$~2

* IN THE HIGH COURT OF DELHI AT NEW DELHI
% Date of Decision: 7th September, 2020
+ W.P. (C) 6041/2020

VIKAS TOMARPetitioner
Through: Mr. Nikhil Bhardwaj, Advocate

versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Sreemithun, Senior Panel
Counsel

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

JUSTICE RAJIV SAHAI ENDLAW

C.M. Appln. Nos.21730-21731/2020 (Exemption from filing fair copies of dim and hand written annexures and from filing certified copies of annexures)

1. Allowed, subject to just exceptions and as per extant rules.
2. The applications are disposed of.

W.P. (C) 6041/2020, C.M. Appln. No.21729/2020 (of the petitioners for stay/interim orders)

3. The sole petitioner, a Sub-Inspector in the respondents Central Industrial Security Force (CISF), has filed this petition

seeking (i) quashing of the charge-sheet dated 27th April, 2020 issued by the respondents CISF to the petitioner on the ground of, the petitioner, while on duty in the night between 17th and 18th January, 2020 at Rajghat Power House, during surprise inspection having been found sitting in the Control Room with the light switched off and which has been suggested to be indicative of the petitioner wanting to sleep, though the petitioner has not been charged with having been found sleeping during the surprise inspection; (ii) impugning the order dated 13th August, 2020 of the respondents CISF, denying copy of the preliminary inquiry report sought by the petitioner; and, (iii) mandamus, directing the respondents CISF to supply the petitioner copies of all the documents sought by the petitioner.

4. The counsel for the petitioner states that the petitioner, since the filing of the petition, has received a communication asking the petitioner to inspect the documents. The counsel for the petitioner thus states that part of the grievance with which the petition was filed, stands redressed. It is further stated that the petitioner, without prejudice to his rights and contentions and with liberty to take up the challenge as made in this petition, at a later date, if need arises, does not press the relief claimed, of quashing of the charge-sheet. It is however stated that direction be issued to the respondents CISF to not only allow inspection of the documents to the petitioner but to also furnish copies of the documents to the petitioner.

5. Mr.Sreemithun, Advocate appearing for the respondents CISF states that copies of the documents will be given.

6. The petition is thus disposed of, directing the respondents CISF to, furnish to the petitioner within ten days, copies of the preliminary Inquiry Report and all other documents intended to be used against the petitioner during the disciplinary inquiry and granting liberty as sought to the petitioner.

7. Though we have disposed of the petition but would like to make some observations which we think should be considered by the authorities concerned, not only of the respondents CISF but of other CAPFs also, with respect to incidents such as that qua which charge-sheet has been issued to the petitioner.

8. We have enquired from the counsel for the respondents CISF, what are the Rules/Guidelines/Protocols with respect to Guard Cabin/Control Room at night i.e. whether the lights provided therein should be kept switched on or are required to be switched off.

9. The counsel for the respondents CISF states that he will have to obtain instructions.

10. In our *prima facie* view, since a charge-sheet can be issued on such an aspect, it is apposite that the said matter be not left at the discretion of the personnel manning the Control-Room and there should be a protocol therefor including qua whether the light

of the Control Room of the Guard Cabin is to be switched on or switched off during night. We may mention that the petitioner has given reasons for his decision to switch off the light i.e., to not make visible the position of the armed guard. The said reason, in the absence of any prescribed protocol, may appear to be plausible and not inviting any disciplinary action. Providing such a protocol, if not already in existence, would provide much required clarity, avoid exercise of discretion by the personnel manning the Control Room/Guard Cabin and would also save the valuable time spent in disciplinary proceedings on such grounds. All that can be said is, that in government bungalows, where the guards are seen posted, generally no light during the night hours is found in the Control Room/Guard Cabin.

11. The counsel for the respondents CISF states that the petitioner has been charged also with arrogance, though on enquiry admits that the Deputy Commandant Naveen Rana, who had carried out the surprise inspection, was not personally known to the petitioner. If that was so, no wrong can *prima facie* be found in the petitioner, an SI, during night duty, asking the Deputy Commandant Naveen Rana his identity card.

12. The counsel for the respondents CISF again states that the charge against the petitioner is also of arrogance.

13. Undoubtedly so, but without giving any particulars of what the petitioner said and in reply to what questions of Deputy

Commandant Naveen Rana. It is *prima facie* felt that the authority concerned i.e. Inspector General (Personnel) of the respondents CISF needs to look into the said aspects also.

14. We may clarify that the purport of the aforesaid is not to render our opinion one way or the other and only to highlight certain facts which, we are of the opinion, will go a long way in inculcating discipline, with clarity in the Force, as to what is required and not required from personnel rendering various duties.

15. The counsel for the respondents CISF at this stage states that in pursuance to telephonic enquiry made by him during the hearing, he has received a message to the effect that the Control-Room light has to be kept switched on and the duty-post light is to be switched off.

16. The petition is disposed of.

न्यायमेव जयते

**RAJIV SAHAI ENDLAW
(JUDGE)**

**ASHA MENON
(JUDGE)**

SEPTEMBER 07, 2020

S