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

+ **W.P.(C) No. 6362/2017 & CM APPL. 26356/2017**

OVINDER KUMARPetitioner

Through: Mr. R.K. Saini, Advocate.

versus

UNION OF INDIA & ORS Respondents

Through: Ms. Monika Arora, Mr. Kushal
Kumar, Mr. Harsh Ahuja, Advocates.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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24.02.2020

1. The Petitioner, who is with the Central Industrial Security Force ('CISF'), has filed the present petition seeking quashing of an order, communicated to him by a signal dated 14th July, 2017, withdrawing the Local Rank ('LR') of Commandant (EXE) (LR) conferred upon him by an order dated 25th February, 2016. The Petitioner has also challenged the consequent order dated 17th July 2017, placing him under suspension.

2. The Petitioner has further sought a writ of mandamus directing the Respondents to treat him as having the "regular rank of Commandant" with effect from 14th July, 2017, for all intents and purposes.

3. While directing notice to issue in the present petition on 26th July 2017,

this Court clarified that the issuance of notice would not be understood as a stay of any enquiry or proceedings which the Respondents might initiate on account of the alleged deposit in cash of a sum of Rs. 7 lacs to the bank account of the Petitioner.

4. On 19th February, 2018, the following order was passed by this Court:

“1. Proxy counsel appearing for the counsel for the petitioner states that the arguing counsel is indisposed.

2. Ms. Monika Arora, learned counsel for the respondents submits that the present petition has been rendered infructuous inasmuch as the suspension order dated 14.07.2017 issued to the petitioner, has been revoked by the Competent Authority vide order dated 14.11.2017. She further states that a Memorandum dated 31.10.2017 was issued to the petitioner, calling upon him to respond to the articles of charge enclosed therewith and the petitioner had duly responded thereto on 17.12.2017. Not satisfied with the said reply, the Competent Authority has initiated a departmental proceeding against the petitioner that is listed before the Enquiry Officer tomorrow. She states that given the aforesaid position, the present petition may be disposed of as infructuous.

3. At the request of the learned counsel for the petitioner, who states that the arguing counsel is unavailable today, list on 21.02.2018, for obtaining necessary instructions.”

5. Thereafter on 21st February, 2018, the following order was passed by this Court:

“1. Mr. R.K. Saini, learned counsel for the petitioner states that he has perused the order dated 19.02.2018, along with the documents handed over by the Department, on which date the learned counsel for the respondents had stated that the suspension order dated 14.07.2017, issued to the petitioner has been revoked by the competent authority vide order dated

14.11.2017 and further that a Memorandum dated 31.10.2017 has been issued to the petitioner whereafter departmental proceedings have been initiated.

2. Learned counsel for the petitioner submits that *dehors* the subsequent events, the present petition still survives as the relief herein is not with regard to the departmental proceedings or the revocation of the suspension order but the petitioner is impugning the initial suspension order dated 14.07.2017, allegedly issued without authority and for treating him as having a regular rank of Commandant w.e.f. 14.07.2017.

3. Pleadings are complete. List on 28.11.2018, in the category of 'After Notice Miscellaneous Matters for arguments.

4. On the next date of hearing, the respondents shall keep available, the relevant records relating to the petitioner.”

6. Today, Ms. Monica Arora, learned Central Government Standing Counsel appearing for the Respondents, has produced before the Court, a communication dated 20th February, 2020, addressed to her by the Assistant Inspector General (‘AIG’)/L&R, CISF, stating *inter alia* that the departmental inquiry against the Petitioner has been completed and sent to the Ministry of Home Affairs (‘MHA’) on 3rd February, 2020, for approval/acceptance. It is further stated, that after the approval of the Home Minister, a copy of the enquiry report will be provided to the Petitioner for making a representation against the said report of the Inquiry Officer (‘IO’). Thereafter, the file would be submitted to the Union Public Service Commission (‘UPSC’) for issuing advice on the quantum of penalty to be imposed upon the Petitioner.

7. Mr. R.K. Saini, learned counsel for the Petitioner, states that he would

seek independent remedies as far as the departmental inquiry is concerned. Even the challenge to the order placing him under suspension does not survive any longer. He, however, insists that this Court should interfere with the order withdrawing his LR.

8. Mr. Saini submitted that the said impugned order dated 14th July, 2017 was perhaps ante-dated. In other words, according to him, since the said order was served upon the Petitioner by email only three days later i.e. on 17th July, 2017, it should be inferred that this was done to avoid the consequences of the recommendations of the Departmental Promotion Committee ('DPC'), granting the Petitioner regular promotion as Commandant (EXE), with effect from 15th July, 2017. According to Mr. Saini, this would have a direct impact on the competence of the authority issuing the charge-sheet and further disciplinary proceedings.

9. As far as the last submission regarding competence of the Disciplinary Authority ('DA'), the Court reserves the right of the Petitioner to urge all such pleas at the appropriate stage while challenging the disciplinary proceedings and the consequential orders passed therein, in separate proceedings.

10. As far as the competence of the Respondents to withdraw the LR of Commandant granted to the Petitioner is concerned, it is seen from the Rule 5 (iv) (b) of the CISF Rules, 2001, that conferment of such LR can be withdrawn *inter alia* by issuing an order of the Director General. The Court has not been persuaded to doubt the assertions made in the counter affidavit

by the Respondents in the present petition that the said LR indeed stood withdrawn on 14th July, 2017 itself. It is explained that on account of the changed circumstances, the Petitioner continuing to hold the LR of the Commandant became untenable.

11. Consequently, the Court finds no reason to interfere with the said order withdrawing the LR of Commandant, conferred upon the Petitioner.

12. The petition is accordingly dismissed. The pending application is also disposed of, but in the circumstances, with no order as to costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

FEBRUARY 24, 2020

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