

28 02.12.2021
RP Ct. No. 16
AN

MAT 624 of 2021
with
IA No. CAN 1 of 2021

Rashpal Singh
vs.
Union of India & ors.

Ms. Pampa Dey (Dhabal)

... for the appellant

This intra-court mandamus appeal has been filed challenging the order dated 01.07.2020 passed in W.P. 19406(W)/2016. The said writ petition was filed by the appellant praying for issuance of writ of mandamus not to give effect to the orders passed by the disciplinary authority dated 20.02.2014 and 28.07.2014 as well as the order passed by the revisional authority dated 19.07.2016 and for a consequential direction to condone the delay in filing the revisional application and considering the revisional application on merits afresh. Before the learned writ court, the appellant contended that the penalty of removal from service was grossly disproportionate and very harsh considering the nature of allegation. More particularly, two other constables who are also co-delinquent were not imposed with the punishment of removal from service. Furthermore, the appellant pressed into service the principles of double jeopardy stating that the appellant has been vested more than once on similar grounds. Further, it was contended that the revisional application ought not to have been dismissed on the ground of delay and should

have been taken up for consideration.

The learned Single Judge has elaborately considered all the issues and taken note of the charges which have been framed against the appellant which included a charge relating to past conduct of the appellant wherein he suffered four minor and one major punishment. The learned Single Judge also noted that the appellant is a constable in the Central Industrial Security Force (C.I.S.F.), a Para-Military Force and he has shown no remorse after the major penalty was imposed upon him. Thus, the learned writ court held that there is nothing perverse about the finding of the disciplinary authority warranting interference by the writ court and, accordingly, the writ petition was dismissed.

Learned counsel appearing on behalf of the appellant would vehemently reiterate the submissions which were placed before the writ court and submitted that after the alleged incident, a mutual letter was exchanged between the owner of the restaurant and the petitioner and two other constables who had created pandemonium in the area and broke tables and chairs of the said restaurant. It was submitted by the learned counsel that the said document was exhibited as Ext. P2 wherein the owner of the restaurant has clearly stated that he has no grievance against the petitioner and two others.

In our considered view, the said mutual letter signed by the owner of the restaurant and the petitioner

and two other constables is an adverse material against the petitioner in the sense that this clearly shows that an incident took place and the appellant and two of his colleagues who were also constables were involved and the owner of the restaurant received Rs. 5000.00 as compensation for the damage caused and thus the said letter can hardly help the appellant. The learned writ court has found that there is no error in the order passed by the disciplinary authority.

We have perused the findings rendered by the disciplinary authority and we find that there is no violation of principles of natural justice and the appellant has been afforded opportunity of hearing and he has been heard in the matter and a decision has been taken. So far as the rejection of the revisional application is concerned, the same was considered by the Inspector General of the CISF and there is a delay of 465 days in filing the revisional application. This aspect of the matter was considered by the revisional authority which held that the revisional application is hopelessly time barred in terms of Section 9(2A) of the CISF Act, 1968.

The writ petitioner appears to have produced medical certificate for indicating that he was undergoing treatment which was also examined by the revisional authority and held that the period of treatment was well after a few days after expiry of the period for submission of the revisional application and, therefore, held that the

appellant was fit enough to file the revisional application within this time limit. In any event, the disciplinary proceedings have been held to be valid by the appellate authority and the learned writ court has also considered the said question and upheld the order.

We have perused the materials placed. We find that there is no perversity in the approach of the disciplinary authority and the appellant being a member of the uniformed service, should not indulge in such activities for which the charges are issued.

Thus, we find no ground to interfere with the order passed by the learned writ court. Hence, the appeal fails and is hereby dismissed. Consequently, the connected application also stands dismissed.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)