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

+ W.P. (C) 1990/2021

MR MANISH KUMAR NATHUBHAI .....Petitioner

Through: Ms. Ananya Mukherjee & Mr.  
Rudra Kumar Dey, Advocates.

Versus

UNION OF INDIA AND ORS .....Respondents

Through: Mr. Vikrant N. Goyal & Mr. Sahil  
Sharma, Advocates.

% Date of Decision: 05<sup>th</sup> March, 2021

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MS. JUSTICE ASHA MENON**

**J U D G M E N T**

**MANMOHAN, J (Oral):**

1. The present writ petition has been filed challenging the order dated 5<sup>th</sup> December, 2018 passed by the Inspector General, Ftr. HQ, BSF, Tripura. Petitioner also seeks direction to the respondents to stay the effect and operation of the said order and to continue the services of the petitioner in his particular post.

2. Learned counsel for the petitioner states that the service of the petitioner who was a Constable with 164 Bn was terminated vide order dated 9<sup>th</sup> April, 2018 under Sections 16(c) and 24 (c) of BSF Act, 1968 for inflicting a bullet injury on his left thigh by firing on himself from his

service rifle while on second shift in HIT (Hot Interaction Team Duty) on 20<sup>th</sup> October, 2017.

3. Learned counsel for the petitioner submits that the petitioner self-inflicted the bullet injury due to momentary lapse of reason and in a tortured state of mind as he was berated by senior officer Mr. Prakash Sundi and his driver Dharmendra Shukla after they found him sleeping on duty. She further states that years of dedicated service undergone by the petitioner should not be overlooked because of this incident.

4. Learned counsel for the petitioner submits that the petitioner has neither been supplied with the inquiry report of the investigation nor with the copy of termination order dated 9<sup>th</sup> April, 2018.

5. Learned counsel for the respondents has handed over a receipt issued by the petitioner duly acknowledging receipt of charge sheet as well as RoE (Record of Evidence proceedings). Three documents handed over by learned counsel for the respondent BSF are taken on record.

6. At this stage, learned counsel for the petitioner states that the petitioner has informed her that he was made to sign certain documents at the time of termination of service. She, however, asserts that petitioner was not given copies of the said documents.

7. However, we find that such a case has not been set up by the petitioner in the present writ petition. Accordingly, the said allegation of the petitioner is not believed.

8. It is settled law that the court reviews the decision making process and not the decision. In the present case, the fact that petitioner was sleeping at his post during duty time and had caused hurt to himself from his service rifle are not disputed. Further the petitioner has been

dismissed from service on the recommendation of Summary Security Force Court (for short 'SSFC') after a trial.

9. The claim of the petitioner regarding accidental fire from his weapon was not found substantiated by the SSFC vide order dated 26<sup>th</sup> October, 2017 due to statement of two eye witnesses. According to SSFC, petitioner's past behaviour of indulging in scuffle with his colleagues supports the view that the petitioner fired one round from his rifle with the intent to either threaten the Company Commander or to gain sympathy as he was caught sleeping on duty on 20<sup>th</sup> October, 2017.

10. Consequently, this Court is of the view that the impugned order does not call for interference inasmuch as the conduct of the petitioner is not found satisfactory and even his mental health had been adversely commented upon by a very senior officer, namely, IG, BSF, Tripura in the impugned order dated 5<sup>th</sup> December, 2018.

11. For the aforesaid reasons, the present writ petition being bereft of merits is dismissed.

**MANMOHAN, J**

**ASHA MENON, J**

**MARCH 05, 2021**

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