

\$~Suppl.-19

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

+ **W.P. (C) 3048/2021**

GANESH PRASAD RAMPetitioner

Through: Mr. Ankita Patnaik, Advocate.

Versus

UNION OF INDIA AND ORSRespondents

Through: Mr. Prakash Kumar,
Central Govt. Sr. Counsel for
UOI.

% Date of Decision: 09th March, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

CM APPL. 9226/2021

1. Allowed, subject to all just exceptions
2. Application stands disposed of.

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3. The petition has been heard by way of video conferencing.
4. Present writ petition has been filed challenging the orders dated 10th December, 2018 passed by Respondent No. 6, whereby a Disciplinary Enquiry was ordered against the Petitioner and the order dated 24th December, 2018, whereby the Petitioner was awarded the punishment of censure. Petitioner also challenges the appellate order dated 11th April, 2019 passed by Respondent No. 5, whereby the Petitioner was awarded the enhanced punishment of stoppage of one increment for a period of two years

without cumulative effect as well as order dated 11th July, 2019 passed by the Respondent No. 4, whereby the Petitioner's second appeal was rejected and order dated 01st May, 2020 passed by Respondent No. 3, whereby the Petitioner's Revision petition was rejected.

5. Learned counsel for the Petitioner states that the Petitioner is a member of CISF who was directed to proceed for election duty in Jammu and Kashmir on 22nd September 2018.

6. She states that the Petitioner got a call from the Petitioner's mother who informed that the Petitioner's father might have to undergo surgery due to deteriorating medical condition. She states that the Petitioner applied for leave on 25th October, 2018 and left only after the Petitioner's reliever joined on 09th November, 2018. She further states that the Petitioner joined back duty without delay on 24th November 2018.

7. She states that the Petitioner received a show cause notice on 28th November, 2018, wherein the Petitioner was asked to explain the Petitioner's failure to submit the medical documents of the Petitioner's father and instructed the Petitioner to submit the same within two days which was complied with by the Petitioner.

8. She states that subsequently a preliminary enquiry was ordered against the Petitioner to enquire into the fact that whether the Petitioner's father was serious and/or admitted in a hospital and for how long the Petitioner's father received medical treatment. She further states that notice dated 10th December, 2018 was served upon the Petitioner, informing that the Petitioner had been charged under Section 37 of CISF Rules, 2001, that the Petitioner had left the post amidst election duty on the pretext of the Petitioner's father's illness despite the fact that the Petitioner's father was

not critically ill.

9. She states that vide impugned order dated 24th December, 2018, the Petitioner was held guilty of the charge, however keeping in mind the past service of the Petitioner, the Petitioner was awarded the punishment of censure.

10. She points out that in the appeal preferred by the Petitioner, the Respondent No. 5 vide impugned order dated 11th April, 2019, enhanced the punishment from censure to stoppage of one increment for the period of two years, without cumulative effect.

11. She submits that the impugned orders have been passed in violation of principle of natural justice as the petitioner was not allowed to produce any witness. She also submits that the punishment in the present case is disproportionate.

12. It is a well settled law that this Court in exercise of writ jurisdiction examines the decision-making process and not the decision itself.

13. In the present case, upon examination of the paper book, this Court finds that there is no violation of principle of natural justice, as the petitioner in the present case had never filed any application to lead any evidence or produced any witness. In fact, the authorities below have proceeded on the basis of the documentary evidence produced by the petitioner himself.

14. Further, though the penalty has been enhanced by the appellate authority, yet this Court is not inclined to interfere with the same, as upon perusal of the paper book, this Court finds that the petitioner had not only pressed for leave on the pretext that his father was seriously ill, when he was not so, but he had also subsequently tried to put the 'fear of God' in the minds of his seniors by falsely using the 'caste card'. In fact, the learned

counsel for the petitioner, during the course of hearing, had fairly stated that she was not pressing any allegation with regard to discrimination on the ground of caste against the respondents in the present writ petition. Consequently, this Court is of the view that the punishment meted out to the petitioner is not disproportionate.

15. In any event, since the decision-making process is not vitiated by any malice, arbitrariness or patent illegality, and/or error apparent on the face of the decision or in violation of principle of natural justice, this Court finds no ground to interfere with the impugned decision.

16. Accordingly, the present writ petition is dismissed.

17. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

ASHA MENON, J

MARCH 09, 2021
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