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

+ W.P.(C) 8243/2021

RAVINDER

..... Petitioner

Through: Mr.Abhay Kumar Bhargava, Advocate.
versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr.R.V.Sinha, Sr.CGC with Mr.Amit
Sinha, CGC and Mr.A.S.Singh,
Advocate.

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Date of Decision: 24th September, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

MANMOHAN, J. (Oral)

1. Present writ petition has been filed challenging the show cause notice dated 27th May 2020 and order dated 16th June, 2020 passed by the DIG, SHQ BSF Jalpaigudi vide which the petitioner was retired from service and orders dated 10th August, 2021 and 02nd November, 2020 vide which the representation preferred by the petitioner against the order dated 16th June, 2020 and subsequent representation dated 15th October, 2020 was rejected.
2. Learned counsel for the petitioner states that vide the impugned orders, the petitioner was dismissed from service on the grounds of unsuitability without following relevant rules and guidelines prescribed vide circular issued by the Director General of the BSF bearing number 13/46/2016-Estt/BSF/4406-756 in March 2017. He emphasises that the rules stipulates

that only the incorrigible or those who have outlived their utility and the capacity for work or found beyond redemption may be dismissed. He contends that on the other hand, the petitioner performed well in the APAR period ending on 31st March 2020 and was marked as good. He points out that despite showing improvement, the petitioner was retired vide impugned order dated 16th June 2020.

3. He states that the guidelines further prescribe that conduct of an individual should be measured for a period of at least three to four years rather than one to two years for accessing a case of retirement on the grounds of disability. It is his contention that the petitioner's case was accessed for a period of less than three years and instead of giving adequate chances, the petitioner was dismissed.

4. A perusal of the paperbook reveals that during sixteen years of service, the petitioner had been awarded eleven punishments by his previous establishment under various sections of BSF Act, 1968 including one SSFC trial. Petitioner also had adverse remarks in the APAR for the year 2017-18, 2018-19 and 2019-20. The petitioner had even been awarded two punishments under Section 19(a) dated 13th December, 2019 and under Sections 40, 19(d), 40 and 26 of BSF Act on 08th May, 2020.

5. A board of officers had recommended that petitioner's further retention in force would be detrimental to the good order and discipline of the force and had recommended to weed him out from the force on ground of unsuitability under Rule 26 of BSF Rules, 1969. The petitioner's plea for pardon for his indisciplined activities and assurance that he will not indulge in indisciplined activities in future had been rejected by the authorities as being devoid of merit.

6. Keeping in view the aforesaid, this Court is of the view that the conclusion of the Ministry of Home Affairs that the petitioner “is highly indisciplined, habitual and incorrigible offender who was not amenable to force discipline” calls for no interference.

7. In any event, this Court is of the opinion that the decision making process in the present case is fair, reasonable and calls for no interference. Accordingly, the present writ petition is dismissed.

MANMOHAN, J

NAVIN CHAWLA, J

SEPTEMBER 24, 2021
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