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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 14th September, 2021

+ **W.P.(C) 10141/2021**

FORCE NO. 085330709 CONSTABLE/DVR ANIL KUMAR
..... Petitioner
Through Mr.Ankur Chhibber, Adv.

versus

UNION OF INDIA AND ORS. Respondents
Through Mr.Farman Ali and Mr.Athar
Raza Farooquei, Adv.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA
NAVIN CHAWLA, J. (Oral)

The hearing has been conducted through video conferencing.

CM No.31288/2021 (Exemption)

Allowed, subject to all just exceptions.

WP(C) 10141/2021

1. The present petition has been filed by the petitioner challenging the order dated 08.06.2020 passed by the Disciplinary Authority of the petitioner finding the petitioner guilty of the charges leveled against him in the Memorandum dated 19.12.2019 and inflicting punishment of 'dismissal from service' against the petitioner.

2. The petitioner further challenges the orders dated 07.10.2020 and 19.05.2021 by which his appeal and revision petition, respectively, against the order dated 08.06.2020 were dismissed.

3. The learned counsel for the petitioner submits that the allegations against the petitioner were motivated by *mala fide* of the respondent no. 4, who had made a false complaint against the petitioner of the alleged incident. He submits that the *mala fide* of the complaint is evident from the fact that due to certain personal issues at his home town the petitioner was seeking leave, which was repeatedly rejected by the respondent no. 4. As the petitioner urgently required to travel during the period from 28.09.2017 to 23.10.2017, he left for his home town without taking any prior permission from the authority. The petitioner was, vide an order dated 25.11.2017 passed by the respondent no. 4, inflicted with punishment of '26 days LHP with no leave salary' for his unauthorized absence. The said punishment was subsequently converted to 'Severe Censure' in terms of the order dated 03.11.2017 passed by the DIG (Medical), Composite Hospital, Bilaspur, Chhattisgarh. As the petitioner became entitled to his share of earned leave, the petitioner vide his application dated 15.12.2017 approached his Commandant with a request for grant of leave. The same was granted to the petitioner by the Commandant, which did not go down well with the respondent no. 4. The respondent no. 4 thereafter implicated the petitioner in the present case making false allegations.

4. The learned counsel for the petitioner further submits that the inquiry itself was initiated more than a year after the alleged incident took place.

5. He submits that merely because the petitioner was inflicted with minor punishment on some previous occasions for some genuine reasons, it does not entitle the respondents to declare the petitioner as a habitual offender or being inflicted with the punishment as has been done by the impugned orders.

6. We have considered the submissions made by the learned counsel for the petitioner, however, find no merit in the same.

7. The petitioner has not been able to show any substantive or procedural flaw in the inquiry conducted against him. The mala fide alleged against the respondent no. 4 is also in the lodging of the complaint and not against the Inquiring Officer or the Disciplinary or the Appellate or the Revisional Authority. We cannot act as an Appellate Authority against the findings of the inquiry and reappraise the same on merit.

8. We further find that the allegations against the petitioner are of grave nature and he has also been found to be a habitual offender. A table incorporated in the impugned order dated 08.06.2020 of the Disciplinary Authority regarding his past misdemeanors is reproduced herein below:-

<i>SL. NO.</i>	<i>Date of Punishment</i>	<i>Details of punishments given for indiscipline.</i>
01	11/12/14	<i>Due to beating and abusing by the employee with his colleagues on 02/05/2014 under 211 Battalion vide</i>

		<i>Office Order No - P-8-1/2014-211- Estt-2 dated 11/12/2014, the punishment of "Stoppage of increment for one year without commulative effect" has been given due to being found guilty after departmental enquiries.</i>
02.	03/11/17	<i>The personnel were absconding from their duty from 28/09/2017 till 23/10/2017 without the permission of any competent authority and have disobeyed/contempt the written and oral orders of their higher officers. Due to which, under the letter No. D-Two-1/2016-CHB-Estt.-II dated 03/11/17, the Deputy General of Police (Medical), Composite Hospital, CRPF, Bilaspur, has regularized the absconding period into half pay leave (without pay and allowances). Along with this, severe punishment was also given for this indiscipline.</i>
03.	14/09/19	<i>On 13/09/2019, Ct./Driver Anil Kumar behaved indiscipline and violently with the administrative officer of C.H. Bilaspur. Despite the efforts of the administrative officer to explain, the personnel remained agitated and violent and was shouting loudly in the ultrasound room saying that I will kill Dr. Jaybalan by accident with the car and used abusive/unparliamentary language for him. Apart from the above, the Ct./Driver Anil Kumar came in a rage and broke the front screen of the government ambulance standing outside the hospital. Since the said personnel has accepted his crime in the orderly</i>

		<i>room, for which he has been punished to 07 days Confinement of Qtr Guard with drill.</i>
04.	23/10/19	<i>Constable/Driver Anil Kumar was alleged of cheating in relation to blood test by force number 135275577 Ct./GD Y.R.K. Naidu, 80 Battalion. On appearing in the orderly room on 06/08/2019 to check the veracity of the case, the personnel accepted to take money after appearing before the Deputy Inspector General (Medical) Composite Hospital, CRPF Bilaspur, due to which said employee was punished for "Severe Censure".</i>

9. In view of the above, we find no merit in the present petition.
The same is dismissed.

NAVIN CHAWLA, J

MANMOHAN, J

SEPTEMBER 14, 2021/rv