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

+ **W.P.(C) 12527/2021**

EX CT DRIVER PATIL GAJENDRA SHIVAJI Petitioner
Through: Mr. U. Srivastava, Advocate with
Mr. Saurabh Sharma, Advocate

versus

UNION OF INDIA AND OTHERS Respondents
Through: Mr. Nirvikar Verma, Advocate with
Mr. Abhishek Khanna, Advocate for
UOI.

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Date of Decision: 06th December, 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 impugned orders dated 27th August, 2019, 27th January, 2020 and 05th March, 2021 whereby the disciplinary authority awarded to the petitioner the penalty of removal from service which was subsequently confirmed by the Appellate Authority as well as the Reviewing Authority. Petitioner also seeks all other consequential benefits, namely, reinstatement in services with full back wages, interest, seniority, and due promotions etc.

2. Learned counsel for the petitioner states that the petitioner, who was enrolled with CISF, while serving in CISF Unit Nalco Angul, Odisha was served with a major penalty charge-sheet under Rule 36 of CISF Rules 2001

(Amended Rules 2003). He states that the petitioner was awarded the penalty of removal from service with immediate effect by the Disciplinary Authority which was upheld by the Appellate Authority.

3. He states that since the Revision petition preferred by the petitioner was not decided by the respondents, petitioner preferred a writ petition, being W.P. (C) No. 829/21, which was disposed of vide order dated 19th January, 2021 pursuant to an undertaking tendered by the respondents that the Revision petition preferred by the petitioner shall be disposed of by way of a speaking order within six weeks.

4. Learned counsel for the petitioner contends that the petitioner's Revision petition has been rejected being bereft of merit and the penalty of removal from service has been upheld. He contends that the order dated 05th March, 2021 vide which the petitioner's Revision petition has been decided is a non-speaking order and the same has been passed without any application of mind by relying on the petitioner's past incidents for which the petitioner has already been punished. He submits that the said past punishments could not have been taken into account to arrive at the conclusion that the petitioner is a habitual offender.

5. In the present case, the petitioner after a detailed enquiry has been found guilty of charges ranging from non-performance of duty, leaving the place of duty without superior's permission as well as creating nuisance and illegally pressurising the administration pretending to consume phenyle near the residence of the Commandant and refusing to receive Government documents/communications.

6. This Court is of the view that the petitioner was dealt with departmentally and was issued a charge-sheet under Rule 36 of CISF Rules,

2001, not on the basis of his previous penalties, which is apparent from the order dated 5th March, 2021, relevant portion of which is reproduced hereinbelow:-

“6. xxx xxx xxx
(v) xxx xxx xxx

The contentions of the petitioner is nothing but scanty prayer before the Revisional Authority. It is fact on record that the petitioner did not perform his lawful duty and left the duty place without permission of his Superior, he created nuisance and illegally pressurised the administration pretending to drink ‘phenyle’ near the residence of the Commandant and further refused to receive Govt. documents/communications for which he was dealt under a major proceedings which was concluded with award him the penalty of ‘Removal from Service’. The petitioner failed to disprove the theory of the prosecution during the course of enquiry. The conduct and behaviour exhibited by the petitioner considered to be serious in nature. As per terms and conditions of service, the petitioner is bound to maintain high degree of discipline but in contrary he proved himself to be otherwise for which he was duly paid. He should have thought about the consequences prior to committing such misconduct, which he failed to take note of it. If, such misconduct is let off freely, it would breed insubordination among other disciplined Enrolled member of the Force. The action taken by Disciplinary Authority and Appellate Authority are entirely within the purview of the existing rules and sustainable in the eye of law. The petitioner has not put forth any new/convincing facts that can absolve him from the proven misconduct. Hence, plea of the petitioner is having no merit for consideration.”

7. *AND WHEREAS, I have scrupulously gone through the pleas put forth by the petitioner in his revision petition vis-a-vis evidences held in case records. I find that a full fledged*

departmental enquiry observing the laid down procedure was conducted into the charges levelled against the petitioner and the Enquiry Officer concluded the enquiry holding the charges levelled against the petitioner as 'proved'. It is fact on record that the petitioner did not perform his lawful duty and left the duty place without permission of his superior authority, he created nuisance and illegally pressurised the unit administration pretending to drink 'phenyle', near the residence of the Unit Commander and also refused to receive the official documents/communication, for which he was dealt under a major proceedings and awarded the penalty. The conduct and behaviour exhibited by the petitioner is grave in nature. As per terms and conditions of service, the petitioner was supposed to maintain high degree of discipline but in contrary he proved himself to be otherwise for which he was duly paid. Hence, pleas put forth by the petitioner have no merit."

7. The fact that the petitioner has been awarded three minor penalties in a short span of eight years was only mentioned in the impugned order as the petitioner had contended that his service record was satisfactory and that he had rendered an unblemished and meritorious service. Accordingly, present writ petition being bereft of merit is dismissed.

MANMOHAN, J

NAVIN CHAWLA, J

DECEMBER 6, 2021

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