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

+ **W.P.(C) 12551/2021 & C.M.No.39521/2021**

CT/GD MAHAKAR SINGH

..... Petitioner

Through **Mr.Ajit Kakkar with Ms.Ria Gandhi,**
Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through **Mr.Vikrant N.Goyal, Advocate.**

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Date of Decision: 10th November, 2021.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J (Oral):

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed by the petitioner challenging the dismissal order dated 21st July, 2021 and seeking his reinstatement in service. In the alternative, Petitioner also seeks directions to the Respondents to change the Petitioner's punishment to 'discharge' instead of 'dismissal' from service and/or allow the Petitioner to take voluntary retirement or grant compulsory retirement so that the Petitioner becomes eligible for pension and other retiral benefits along with compassionate allowance.
3. Learned counsel for the Petitioner states that the Petitioner was enrolled in CRPF on 11th April, 1991. He states that the Petitioner requested

for grant of casual leave from 07th September, 2019 to 20th September, 2019 to undergo treatment for his deteriorating health condition. The petitioner was granted casual leave for the said period. However, as the Petitioner's health conditions did not improve, he requested for extension of leave. He points out that since the petitioner was critically ill, he had duly informed the unit authorities regarding his health condition and also furnished his medical documents as proof of his unstable health condition, however, the authorities failed to appreciate the same and instead directed him to report back to the unit immediately.

4. A perusal of the paper book reveals that two departmental enquiries were conducted against the Petitioner simultaneously. While one was for producing a fake educational certificate, the other was on account of over-stay of leave/desertion.

5. Though the Petitioner was found guilty in both the departmental enquiries, yet the punishment of dismissal was imposed on the ground that the Petitioner had produced a fake educational certificate. The relevant portion of the office order dated 21st July, 2021 is reproduced hereinbelow:-

07. Therefore, I have carefully gone through the DE proceedings, and found that the enquiry has been conducted as per the rules and laid down procedure. There is no procedural irregularities for conducting of Departmental Enquiry. Reasonable opportunities were extended to the delinquent to defend himself effectively at every stage of enquiry to meet the principle of natural justice. On-going through the Departmental Enquiry proceedings and findings, the Enquiry Officer has drawn enquiry report in the light of exhibits and statement of prosecution witnesses in which he brought out that the delinquent i.e. No. 913154002 CT/GD Mahakar Singh of E/5 Bn, CRPF was enlisted in CRPF during the year 1991 by producing fake high School mark sheet certificate No. 067854 (roll No. 108465) dated

19/06/1988 issued by the Secretary, Board of High School and Intermediate Education (Uttar Pradesh) was verified from the above institution by Group Centre, CRPF, Avadi vide their letter No.V.I-08/2018-SRC-1/18 dated 17/07/2018, which is a grave offence and not tolerable, thus the charge framed in Article-I stands fully proved. Further, No. 913154002 CT/GD Mahakar Singh of E/5 Bn enlisted in CRPF fraudulently by producing fake education certificate No.067854 (Roll No.108465) dated 19/06/1988 showing Date of Birth as 24/06/1971 issued by the Secretary, Board of High School and Intermediate Education (Uttar Pradesh) (Madhyamik Shiksha Parishad Uttar Pradesh). As per verification report of the Administrative Officer, Board of High School and Intermediate Education, Regional Office, Meerut (UP) vide their letter No. के०का०मा०शि०प०/अभिलेख/2755 dated 25/01/2019 the above school certificate pertains to Mr. KaliyanDatt Sharma S/o Shri Jankee Prasad Sharma showing the Date of Birth as 01/06/1972, Marks-129/600 Fail). Thus the charge framed in Article-II stands fully proved by E.O. After taking into the consideration of the above facts, as well as statement of prosecution witnesses as explained above, Enquiry Officer has fully proved the charge of Article-I & II framed against him vide memorandum No.P.VIII-1/2021-05-EC-II dated 22/01/2021 beyond any iota of doubt.

08. Keeping in view of the above facts and after examination of all the pros and cons of the case, I have come to the conclusion that charges framed against No.913154002 CT/GD Mahakar Singh of E/5 Bn, CRPF vide article of charges-I and II vide memorandum No. P.VIII-1/2021-05-EC-II dated 22/01/2021 have been proved fully beyond any iota of doubt and found guilty of misconduct in his capacity as member of the Force and the charged official deserve for stringent punishment for his misconduct. In the exercising powers vested upon me under Section 11(1) of CRPF Act 1949 read with table below Rule-27 of CRPF Rules 1955, I hereby impose the penalty of "DISMISSAL FROM SERVICE" upon the said Force No. 913154002 CT/GD Mahakar Singh of E/5 Bn, CRPF wef 21/07/2021 (AN).....”

6. In the present writ petition, the Petitioner has challenged the departmental enquiry which was initiated on the ground of over-stay and desertion. The Petitioner has nowhere disputed the charge of producing a fake educational certificate, which is the sole ground for his dismissal from service. It is also pertinent to mention that no medical certificate has even been enclosed along with the present writ petition.

7. At this stage, learned counsel for petitioner wishes to withdraw the present writ petition on the ground that a mistake had been committed by the drafting counsel. However, this Court finds that the present writ petition is supported by the affidavit of the petitioner who after reading the petition should have disclosed true and correct facts to his counsel. In fact, this Court is of the view that the petitioner had overstayed leave/deserted his post for nearly one and a half year to avoid giving any response to the allegation of submitting fake educational qualification. The omission to deal with allegation of submission of fake educational qualification in the present case is not an innocent one, but a part of the 'strategy' that had been adopted by the petitioner right from the time the disciplinary proceedings had commenced. Consequently, the request of counsel for the petitioner for withdrawal of the present writ petition is declined and the writ petition along with pending application being bereft of merit, is dismissed.

MANMOHAN, J

NAVIN CHAWLA, J

**NOVEMBER 10, 2021
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W.P. (C) 12551/2021

Page 4 of 4