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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 25th November, 2021

+ **W.P.(C) 13261/2021**

EX CT GD VIKAS RATHI Petitioner
Through Mr.O.P.Gaggar,
Mr.O.P.Agarwal, Mr.Sansar
Kumar, Advs.

versus

UNION OF INDIA & ORS. Respondents
Through Mr.B.S.Shukla, CGSC, UOI.

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

CM Appl. 41856/2021 (Exemption)

Allowed, subject to all just exceptions.

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1. This petition has been filed by the petitioner challenging the Order dated 16.01.2017 passed by the respondent no. 5 imposing the punishment of 'Dismissal from Service' on the petitioner in the exercise of the powers conferred under Rule 39(ii) read with Rule(s) 32(1) and 34(i) of the Central Industrial Security Force Rules, 2001 (hereinafter referred to as the 'CISF Rules').

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2. The petitioner further challenges the Order dated 31.05.2019 passed by the respondent no. 4 and the Order dated 30.06.2021 passed by the respondent no. 3, dismissing the appeal and the revision, respectively, against the above order of dismissal.

3. The learned counsel for the petitioner submits that the petitioner was arrested in a false case by the police on 09.01.2017 and a First Information Report, being FIR No. 03 of 2017, under Section(s) 323/341/354/504 of the Indian Penal Code, 1860 (hereinafter referred to as the 'IPC') was registered against the petitioner in PS Pathardih.

4. The petitioner was thereafter placed under suspension and was issued a Show Cause Notice dated 10.01.2017 under Rule 39(ii) of the CISF Rules. The petitioner duly represented against the same, however, he was inflicted with the punishment of dismissal from service by the Impugned Order dated 16.01.2017.

5. In the criminal trial, however, the petitioner was acquitted of the false charges by an order dated 04.02.2019 passed by the learned Judicial Magistrate, First Class, Dhanbad, in G.R. No. 144 of 2017 (Trial Case No. 425 of 2019). Thereafter, the petitioner preferred an Appeal before the respondent no. 4, challenging the order of dismissal and sought reinstatement in service, however, the same was dismissed vide Impugned Order dated 31.05.2019 on the ground of the appeal being barred by limitation. The petitioner thereafter preferred a Revision Petition before the respondent no. 3, which has also been dismissed vide Impugned Order dated 30.06.2021 on the ground of limitation.

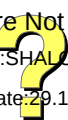
6. The learned counsel for the petitioner submits that the petitioner having been acquitted of false charges in the criminal trial, the Impugned Order inflicting the punishment of dismissal from service deserved to be set aside and the petitioner ought to have been reinstated in service. He submits that the petitioner could have preferred an appeal only upon his acquittal from the criminal trial and therefore, there was no delay in filing the appeal.

7. He submits that the petitioner was dismissed from service invoking provisions of Rule 39(ii) of the CISF Rules without conducting an enquiry, thereby denying him an opportunity to prove his innocence.

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

9. The Impugned Orders record that the petitioner had misbehaved and outraged the modesty of a young girl aged twenty-two years and was identified by two civilian boys. A mob of about 300 to 400 local people had gathered in front of the CISF camp and started pelting stones over the barracks. An FIR was also lodged on the complaint of the girl and the petitioner was arrested. The Authority found that in these circumstances conducting a full-fledged departmental enquiry against the petitioner was not reasonably practicable and may go against the basic ethics of a civilised society and a disciplined Force.

10. The Order of the learned Judicial Magistrate relied upon by the learned counsel for the petitioner is also not of an 'Honourable



discharge/acquittal’. In fact, the learned Trial Court held the offences under Section(s) 341/323/504 of the IPC against the petitioner as having been compounded in view of the factum of the compromise between the petitioner and the complainant. The relevant extract from the order of the learned Judicial Magistrate is as under:

“13) Under the circumstances and in view of the findings as recorded herein above, this Court finds and holds that so far as the offences under section 341/323/504 of the Indian Penal Code is concerned against the accused, the same have been compounded in view of the factum of compromise between the parties to this case. This court further finds and holds that so far as the offence under section 354 of the Indian Penal Code is concerned against the accused person, the ingredients thereof are not made out and proved against the accused on the basis of the prosecution evidences on the record as discussed herein in above and the accused is held not guilty for the same. In the result, the accused person namely Vikash Rathi is acquitted of all the charges framed against him. As he is enjoying the privilege of bail, his bail bonds are discharged. The sureties are also discharged of their liabilities.”

11. The Supreme Court in ***Deputy Inspector General of Police & Anr. v. S. Samuthiram***, (2013) 1 SCC 598, has held that the acquittal in a criminal case by itself cannot be a ground for interfering with an order of punishment imposed by the Disciplinary Authority. Mere acquittal of an employee by a criminal court has no impact on the disciplinary proceedings initiated by the Department.

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

NAVIN CHAWLA, J

MANMOHAN, J

**NOVEMBER 25, 2021
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