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W.P.A. 2205 of 2016

Supratim Mukherjee

-vs-

Union of India & Ors.

Mr. Arup Kumar Lahiri

....for the petitioner.

Mr. Anirban Mitra

....for the UOI.

This writ petition pertains to the order of punishment of removal dated 9th December, 2010 passed on conclusion of disciplinary proceeding which was conducted against the petitioner in terms of the relevant provisions of the Central Industrial Security Force Act, 1968 (hereinafter referred to as the "said Act"). Petitioner being aggrieved by the order of punishment of removal dated 9th December, 2010 issued by the disciplinary authority preferred a departmental appeal in terms of Section 9 of the said Act of 1968. The appeal preferred by the petitioner questioning the order of removal from service was disposed of vide order dated 7th April, 2011 confirming the order of the disciplinary authority. The petitioner instead of preferring a revisional application which has been provided under Section 9(2A) presented this writ petition questioning the order of the appellate authority as well as the disciplinary

authority.

Matter has come up for consideration before this Court in presence of the learned advocates representing the petitioner and respondent authorities.

During course of hearing, Mr. Mitra representing the Central Industrial Security Force has brought to the notice of this Court the provision relating to preferring revisional application against the order of the appellate authority as contemplated under Section 9 of the said Act of 1968.

On placing reliance on such provision relating to filing revisional application it has also been submitted on behalf of the respondents that the present writ petition may not be entertained in view of existence of efficacious alternative remedy.

Mr. Lahiri, learned advocate appears on behalf of the writ petitioner and he has submitted on placing reliance on Rule 54 of the Central Industrial Security Force Rules, 2001 that notwithstanding not preferring revisional application in terms of Section 9 (2A) of the said Act of 1968 by the petitioner it was open to the concerned authority of CISF to call for the records for scrutinising whether the proceedings were

conducted in accordance with law or not.

Be that as it may, it appears on considering the relevant provisions under the said Act of 1968 that there is existence of efficacious alternative remedy in the form of preferring revisional application in terms of Section 9(2A) of the said Act of 1968. It has also been found by this Court that the petitioner did not challenge the order of the disciplinary authority whereby he has been removed from service straightway by filing the writ petition, instead he chose to file a departmental appeal before the appellate authority under Section 9 of the said Act of 1968.

Since the petitioner has been aggrieved by the order of the appellate authority the appropriate course left open to him is to file revisional application under the relevant provision of the said Act of 1968 before the revising authority. Instead of filing such revisional application petitioner filed writ petition challenging the order of the appellate authority.

In view of aforesaid position, this Court grants leave to the petitioner to prefer revisional application before the revising authority in terms of Section 9 of the said Act of 1968 within a period of thirty days from this date.

If revisional application is presented before the revising authority within the aforesaid period the said revising authority is directed to dispose of the revisional application of the petitioner on merit as expeditiously as possible upon condoning the delay in approaching the revising authority keeping in view the fact that petitioner filed writ petition before this Court.

With the above direction, the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)