

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

Writ Appeal.No.688 of 2022

JUDGMENT: *(Per Hon'ble Justice Abhinand Kumar Shavili)*

Aggrieved by the order dated 05.06.2022 passed in W.P.No.2579 of 2011 by the learned Single Judge, the present writ petition has been filed.

2. Heard learned Standing Counsel for the Central Government appearing for the appellants and Ms. M. Venkateshwari, learned counsel appearing for the respondent.

3. Learned Standing Counsel for the Central Government appearing for the appellants contended that the respondent was working as Constable with the appellants and disciplinary proceedings were initiated against him under Section 11 of Central Reserved Police Force (for short, 'CRPF') Act, 1949. During the course of departmental proceedings, it has come to the notice that the respondent was guilty of serious misconduct, consequently the appellants have issued orders of removal i.e., *vide* order dated 02.07.2022. Thereafter, the respondent has

preferred an appeal unsuccessfully and later challenged orders of removal by filing W.P.No.25779 of 2002. Learned Single Judge allowed the said writ petition by setting aside the order of removal and directed the appellants to reinstate the respondent into service.

4. Learned counsel for the appellants had further contended that the learned Single judge has interfered with the orders of removal on the ground that the appellants have initiated disciplinary proceedings by invoking Section 11 of 'CRPF Act', which deals with minor punishments and also could not impose any major penalty. Learned counsel for the appellants drawn attention of this Court to the judgment rendered by the Supreme Court in ***Union of India Vs. Ghulam Mohd. Bhat***¹, where-in, it was held that the disciplinary action initiated under section 11 of 'CRPF Act' enables the disciplinary action to impose major penalty of removal or dismissal from service, and the same ratio was followed in ***Union India Vs. Diler Singh***². Since order passed by the learned Single Judge is contrary to the law laid down by the Supreme Court, appropriate orders be passed in the

¹ In 2005(13) SCC, 228.

² In 2016 (13) SCC, 71.

Writ Appeal by setting aside the order passed by the learned Single judge and allow the writ appeal.

5. On the other hand, learned counsel for the respondent had contended that learned Single Judge had set aside the order of removal by applying the theory of proportionality and the learned Single Judge was justified in allowing the writ petition by setting aside the order passed by the appellants. Therefore, there are no merits and the same is liable to be disposed of.

6. This court, having rival submissions made by the parties, is of the considered view that the learned Single Judge has set aside the order of removal only on the ground that disciplinary proceedings were initiated under section 11 of CRPF Act and therefore, the appellants could not impose major penalty of removal, and the said order of the learned Single Judge is contrary to the law laid down by the Supreme Court. Since the order passed by the learned Single Judge is contrary to the law laid down by the Supreme Court, it has to be liable to be set aside.

7. Accordingly, the Writ Appeal is allowed and the matter can be remanded back to the learned Single Judge, with a direction to

dispose of the writ petition as early as possible, as the Writ Appeal pertains to the year 2002. There shall be no order as to costs.

8. As a sequel, miscellaneous applications pending, if any, in this Writ Petition, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

JUSTICE NAMAVARAPU RAJESHWAR RAO

Date: 07.11.2022

Prat/myk