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

+ W.P.(C) 1061/2020

EX (CON) CHANDAN KUMAR SHARMA Petitioner

Through Mr.S.D.Mishra, Advocate.

versus

UNION OF INDIA Respondent

Through Mr.Dilbag Singh, Advocate.

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Date of Decision: 24th February, 2022

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J (Oral):

The petition has been heard by way of video conferencing

C.M.No. 9746/2022

1. Present application has been filed seeking restoration of W.P.(C)1061/2022, which had been dismissed in default and on account of non-prosecution.
2. Learned counsel for the Applicant/Petitioner states that the counsel for the Petitioner was unwell and thus could not appear on the last date of hearing i.e. on 17th January, 2022. He states that non-appearance on the part of learned counsel for the Petitioner was neither intentional nor deliberate.
3. Issue notice. Mr.Dilbag Singh, Advocate accepts notice on behalf of



the respondent.

4. Keeping in view of the averments in the application, the same is allowed and the matter is restored to its original status.

5. Accordingly, the application stands disposed of.

W.P.(C) No.1061/2020

6. With the consent of learned counsel for the parties, present petition is taken up for hearing.

7. It is pertinent to mention that the present writ petition has been filed challenging the order dated 27th September 2017 passed by DG BSF, whereby the Petitioner's dismissal order dated 04th March 2017 has been confirmed and the Petitioner has been dismissed from service. Petitioner also seeks re-instatement with all consequential benefits.

8. Learned counsel for the Petitioner states that two charges were framed against the Petitioner as per the charge sheet dated 12th May 2016 i.e. using threatening language with his superior officer and violating the good order and discipline of the force. He states that SSFC conducted the proceedings against the Petitioner on 06th September 2016 and vide order dated 04th March 2017, the Petitioner was found guilty of both the charges and consequently dismissed from service.

9. He states that the Petitioner preferred a petition dated 17th May 2017 under Section 117 of the BSF Act, challenging his dismissal order dated 04th March 2017. He emphasises that Respondent, vide the impugned order dated 27th September 2017, has rejected the petitioner's petition and confirmed the findings dated 04th March 2017 passed by THQ 85 BN BSF Malkangiri, Odisha.



10. Learned counsel for the Petitioner emphasises that the Petitioner has no criminal antecedents and since the Petitioner was the best cadet of his unit, many persons are inimical to him. He also states that at the time of incident, the Petitioner was slightly disturbed as his wife was unwell.

11. A perusal of the record reveals that the Petitioner had pleaded guilty to the charges in the SSFC. Further, the Petitioner was a habitual offender who had been punished seven times in the past and given warning twice for using threatening and insubordinate language with his superiors.

12. Consequently, the defence of the petitioner that the Petitioner was disturbed on the date of incident due to his wife's ill health 'cuts no ice' with this Court!

13. In the counter affidavit, it has also been stated that the Petitioner was in the habit of overstaying his leave.

14. Hence, considering the Petitioner's past conduct and the offences committed by him, this Court is of the view that the punishment awarded to the Petitioner is commensurate with the gravity of the offences and calls for no interference in writ jurisdiction.

15. Accordingly, the present writ petition is dismissed.

MANMOHAN, J

NAVIN CHAWLA, J

FEBRUARY 24, 2022
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