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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 714 OF 2023

Vinita Sarvesh Kumar Shukla

... Petitioner

V/s.

Sr. Divisional Security Commissioner

... Respondent

Mr. A.S. Peerzada i/b. Iqbal Shaikh for the Petitioner

***CORAM : NITIN JAMDAR &
SANDEEP V. MARNE, JJ.***

DATE : 31 JULY 2023

P.C. :-

Heard the learned Counsel for the Petitioner.

2. The Petitioner has challenged the orders dated 11 March 2021 and 19 April 2021 passed by the Revisional Authority under the Railway Protection Force Rules, 1987. The Petitioner joined the services of the Respondent – Railways in the year 1998 as a Lady Constable. Thereafter, she was permitted to the post of Assistant Sub Inspector and thereafter, as Sub Inspector in the year 2017. An

incident took place in the area where the Petitioner was on duty whereby there was a spark and smoke from the gas pipe while carrying out the work. The Respondent – Railway Authorities, the employer were of the opinion that the Petitioner had failed in her duty and made an attempt to threaten the contractor.

3. Accordingly, charge-sheet was served on the Petitioner on 17 December 2019 under Section 9(i)(ii) of the Railway Protection Force Act, 1957 read with Rule 153 of the Railway Protection Force Rules, 1987 and the disciplinary enquiry was held. The Petitioner was given an opportunity and the Respondent imposed punishment of compulsory retirement. The Petitioner thereafter filed the revision under Rule 219 of the Railway Police Force Rules.

4. The Revisional Authority, by the impugned order, set aside the order of compulsory retirement and directed that the Petitioner be reverted from the post of Sub Inspector (Level-6) to Assistant Sub Inspector (Level-5) at the lowest level for three years and that her Annual Increment for the said period be withheld. Challenging this order, the Petitioner is before us.

5. The learned Counsel for the Petitioner submitted that the Petitioner has been victimised and the Petitioner was not guilty

at all and even the punishment of reversion was unwarranted. He submitted that in the alternative the punishment of reversion is harsh. The learned Counsel for the Petitioner submitted that considering the findings upon which the Revisional Authority has set aside the order of compulsory retirement even the reversion was not necessary.

6. The scope of writ jurisdiction against the orders such as the present one is limited in examining whether there is any breach of principles of natural justice or gross illegality or the view taken is perverse or that the punishment is shockingly dis-proportionate. As regard the principles of natural justice, there are complied with. The Petitioner has been given full opportunity to put forth the defence. The Revisional Authority, while setting aside the order of compulsory retirement, has not given a clean-chit to the Petitioner. The Revisional Authority noted that the Petitioner had called the concerned contractor twice. The Revisional Authority opined that the Act of the Petitioner to threaten the contractor was unwarranted and beyond the duty therefore, the Revisional Authority has imposed punishment of reversion. Considering the post the Petitioner held, that is of Sub Inspector, the Petitioner's action of threatening the contractor was not warranted and therefore, the Petitioner though not guilty in respect of the incident, had exceeded her duty while dealing with the contractor. Therefore we do not find

that the impugned order is perverse or that it is shockingly disproportionate, to interfere in the writ jurisdiction.

7. As regards the Petitioner's prayer regarding the payment of nine months' wages, the Petitioner has made a representation. The said representation be decided by the Respondent – Authority within a reasonable period.

8. The Writ Petition is accordingly rejected.

SANDEEP V. MARNE, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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