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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-6314-2023 (O&M)
Date of Decision: 10.05.2023**

ATAMJEET SINGH

.. Petitioner

Vs.

UNION OF INDIA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Arun Singla, Advocate for the petitioner.

Ms. Anita Balyan, Sr. Panel Counsel
for respondent-UOI.

...

Manoj Bajaj, J. (Oral)

This writ petition has been filed by the petitioner under Article 226 Constitution of India for issuance of a writ of Certiorari for quashing the proceedings of the Summary Security Force Court, findings of conviction and sentence dated 20.02.2016 (Annexure P-1), as well as order dated 10.03.2023 (Annexure P-7) passed by respondent No.2, whereby the Statutory Appeal dated 07.09.2022 preferred by petitioner has been rejected.

Learned counsel submits that the petitioner was working as Constable with 125 Battalion, Border Security Force, when he was subjected to the proceedings before the Summary Security Force Court and was later convicted on the basis of his pleading guilty, whereupon the punishment of dismissal from service was inflicted upon him. Learned counsel has drawn the attention of the Court to the charge-sheet dated 20.02.2016 (Annexure P-1) and submitted that on 20.02.2016 itself the trial proceedings before the Summary Security Force Court were held, which is

totally contrary to the BSF Act and Rules, because in terms of Rule 63(6) of the Border Security Force Rules, 1969, a period of minimum 24 hours was required to be given to the petitioner for preparation of his defence. Learned counsel submits that the verdict of the Court was delivered on the same date on 20.02.2016 ordering his dismissal from service and the said punishment is also extremely disproportionate considering the conduct of the petitioner, who pleaded guilty. According to learned counsel, Rule 142(2) of the Border Security Force Rules, 1969 was not complied with, and for violation of this rule, the entire proceedings, findings and sentence passed by the Summary Security Force Court deserve to be set aside. Lastly, learned counsel submits that instead of the extreme punishment of dismissal from service, alternatively the minimum punishment could have been awarded to the petitioner. Learned counsel submits that against the decision dated 20.02.2016, though the petitioner had preferred an appeal, but the same has also been dismissed vide order dated 10.03.2023 (Annexure P-7). He on these limited grounds, prays that the impugned orders passed by the respondents warrant interference by this Court.

After hearing the learned counsel and considering his submissions, this Court finds that the petitioner faced trial for commission of an offence punishable under Section 40 Border Security Force Act, 1968 i.e. violation of good order and discipline. The charge against him reads as under:

“CHARGE SHEET

The accused, No.130525637 Rank-Constable Name-Atamjeet Singh of 125 Bn BSF attached with 114 Bn BSF, is charged with:-

***AN ACT PREJUDICIAL TO GOOD ORDER AND
DISCIPLINE OF THE FORCE***

*in that he,
at Malda Town on checking of personal belonging
of Constable Atamjeet Singh by Shri Sanatan Mondal, DC, 114
Bn BSF cash amounting to Rs.67,500/-, 05 Nos mobile
phone/gadgets were recovered from him with telephone
numbers of some local smugglers and Rs.3,28,000/- deposited
into various accounts of his relatives at his home town which
proves that he was involved in connivance with local
smugglers.”*

Further, perusal of the proceedings of Summary Security Force Court (Annexure P-1) would show that the said Court had explained the meaning of the charge to the accused to which he pleaded guilty and in response, he stated that he understands the nature of the charge. Apart from it, the Court also recorded its satisfaction that the accused understands the charge and also observed that there is no need for the accused to withdraw his plea of guilt. Thus, the provisions of Rule 142(2) Border Security Force Rules, 1969 were complied with and the proceedings on plea of guilt were concluded with the punishment of dismissal from service. A reading of Section 40 Border Security Force Act, 1968 shows that this punishment is lesser than the maximum punishment i.e. to suffer imprisonment for a term, which may extend to seven years. Apart from this, once the petitioner voluntarily pleaded guilty to the charge-sheet, the provisions of Rule 63 Border Security Force Act, 1968 would not be attracted, which provides for time frame to the accused to prepare his defence.

Otherwise also, during the course of hearing, learned counsel is unable to point out the prejudice if any, suffered by the petitioner for the alleged violation of Rule 63(6) Border Security Force Act, 1969. A close reading of the decision by the appellate authority shows that it has minutely examined the entire case carefully while affirming the punishment and the

said order does not suffer from any illegality, therefore, no interference is warranted by this Court under Article 226 Constitution of India.

Dismissed.

10.05.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No