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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 18.08.2023

+ W.P.(C) 10948/2023, CM APPL. 42482/2023 & CM APPL. 42483/2023

IMRAN AHMAD SIDDIQUI REGT NO 101560065 INSPR/GD
..... Petitioner

versus

UNION OF INDIA & ORS. Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Naushad Alam & Mr. Sandeep Kr. Pathak, Advocates

For the Respondents: Mr. Hemendra Singh, Dy. Commandant (Law), BSF

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 15.06.2023 whereby Court of Inquiry proceedings were initiated against the petitioner; order dated 12.07.2023 whereby Record of Evidence was directed to be recorded against the petitioner; order dated 11.08.2023 whereby the petitioner has been prematurely repatriated to his parent organization on disciplinary ground and order dated 12.08.2023 whereby the movement order has been issued to the petitioner to report back to his parent organization.

2. Petitioner was enrolled in the Border Security Force as Sub-Inspector (GD) in the year 2010 and was promoted to the rank of Inspector (GD) in



2016.

3. Petitioner was sent on deputation to the National Disaster Response Force (NDRF) on 24.04.2021.

4. Petitioner contends that the 'Court of Inquiry and 'Record of Evidence' have been incorrectly directed against the petitioner and without conclusion of the proceedings and without taking any disciplinary action against the petitioner, he has been prematurely repatriated to his parent organization on disciplinary ground.

5. Learned counsel for petitioner submits that he has not been communicated any punishment order by the Court of Inquiry or after the conclusion of 'Court of Inquiry or Record of Evidence or charge-sheeted to face any disciplinary proceedings. He submits that his premature repatriation is contrary to rules.

6. Learned counsel appearing for respondent, on the other hand, contends that petitioner was found lacking in performance of his duties and as such Court of Inquiry was ordered and thereafter Recording of Evidence was also directed. He submits that when the Court of Inquiry and ROE were concluded, the same were placed before the competent authority and the competent authority decided to repatriate the petitioner prematurely, instead of taking any disciplinary action against the petitioner.

7. Learned counsel for the respondent submits that petitioner used insubordinate language against his superior officer and was also lax in his duties thereby delaying the response team from reaching the site of disaster



which caused the loss of life of a child.

8. Respondent has produced before us the noting-sheet of the consideration of the case of petitioner which reads as under:-

Note No. #3

May refer preceding notes pl. Individual was heard by SH Manoj Yadav, DIG (ADMN) on 28/07/23 and complaint that he was not heard properly in the BN and all charges against him are false, whereas as per the letter of CO 9 (attached) and recommendations of the Zonal DIG suitable disciplinary action against individual may be taken being a habitual offender.

Matter is submitted for directions and order pl.

31/07/2023 12:59 PM

*(GAMBHIR SINGH CHAUHAN)
(DEPUTY INSPECTOR GENERAL (ESTT))*

Note No. #4

Pls comment about the hearing opportunity given to the Inspector.

02/08/2023 5:13 PM

*(NARENDER SINGH BUNDELA)
(IG NDRF)*

Note No. #5

On directions of CA, I have heard the Inspr. Imran Ahmad Siddiqui, 9th Bn on 28th, July 2023 around 1100 hrs. During hearing, he was given opportunity to communicate his grievance.

Inspr. Imran has put forward that he is being implicated on frivolous and unfounded charges of discipline. He said that during movement of alert team, he was very much present before team left for operations and he is also being charged for insubordination with senior officers after completion of morning PT and he requested to investigate matter in all fairness. He is also informed that Adjt is also very strict and harsh and personnel remains under fear. Further requested for justice with him.

I heard him patiently and assured him to look in to matter.

These all are individual version and nothing was cross-examined or verified from the unit Comdt. or any other officer as he matter was being dealt by Comdt. 9 Bn and DIG E & NE Zone.

It appears that allegations made by Inspr. Imran are afterthought a realizing that disciplinary matters are initiated against him.

Submitted for kind perusal.



03/08/2023 11:08 AM

(MANOJ KUMAR YADAV)
(DEPUTY INSPECTOR GENERAL (ADM))

Note NO. #6

In view of the Note 3 and Note 5, the Inspector may be repatriated pls.

03/08/2023 5:58 PM

(NARENDER SINGH BUNDELA)
(IG NDRF)

Note No. #7

Approved.

07/08/2023 9.20 AM

(ATUL KARWAL)
(DG NDRF)

9. Perusal of the noting-sheet shows that petitioner was produced before the Inspector General (Admn.) on 28.07.2023 for the purpose of granting an opportunity for personal hearing. Thereafter the matter was placed before the Directorate General who reconfirmed that a hearing opportunity was granted to the petitioner. After giving full hearing to the petitioner, the competent authority decided to repatriate the petitioner.

10. Reference may be had to the Standard Operating Procedure for Repatriation of NDRF Personnel on Deputation with NDRF dated 30.05.2019 which reads as under:-

“.....

iv. If an individual is found indulging in activities of indiscipline or awarded punishment during the period of deputation he/she will be repatriated to their parent organization.”

11. In the present case allegations against the petitioner are of indiscipline against senior officer and dereliction in duty thereby causing delay in the reaction by the response team leading even to loss of life of a child.

12. In view of the facts of the case, we find no merit in the contentions of



the petitioner that Court of Inquiry and the Record of Evidence should have culminated into a disciplinary action.

13. We are of the view that respondent has taken a lenient view qua the petitioner and instead of proceeding further with a disciplinary inquiry, merely repatriated petitioner to his parent organization.

14. No officer has a right to remain on deputation. It is for the authority concerned to consider as to whether an officer is fit to be retained or not.

15. Mere repatriation of petitioner prematurely would not amount to any stigma on his career and petitioner also does not suffer for the reason that by such premature repatriation to his parent organization, there is no loss of rank or pay in any manner to him.

16. Perusal of the office-note extracted hereinabove shows that due consideration has been granted to the conduct of petitioner and respondent has taken a reasoned decision to prematurely terminate the deputation of petitioner.

17. In the facts and circumstances of the case, we are of the view that this action of the respondent does not suffer from any infirmity or warrant any interference.

18. In view of the above, we find no merit in the petition. The petition is consequently dismissed.

SANJEEV SACHDEVA, J



MANOJ JAIN, J

AUGUST 18, 2023/dr

