



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

% *Date of decision: January 09, 2024*

+ W.P. (C) 1713/2019

(17) KRISHNA KUMAR BHARTI Petitioner
Through: Ms. Aanchal Basur, Adv.

Versus

UNION OF INDIA & ANR Respondents
Through: Mr. Vikrant N. Goyal and Mr.
Nitin Chandra, Advs. with
SIs/EXEs Prahlad Singh
Devendra, Amit Kumar and Zishan
Hashim, CISF.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

SAURABH BANERJEE, J. (ORAL)

1. The petitioner, an Ex-Constable (CT/GD) in Central Industrial Security Force (CISF), vide the present petition under Article 226 of the Constitution of India, prays for setting aside the impugned order dated 11.07.2018 passed by the respondent No.2 in appeal filed by the petitioner against the order dated 16.01.2018 passed by the Inspector General/North Sector, CISF removing the petitioner from service and for a direction to reinstate the petitioner alongwith all consequential benefits.

2. According to the facts of the present petition, the petitioner while stationed at CISF Unit HEP Uri-I was charged with two



offences: **OFFENCE I:** For molesting wife of an SI (Exe) [*SI*] by entering his residential quarter in his absence on 01.11.2015 and **OFFENCE II:** For threatening to attack the said SI and his wife with AK-47 rifle.

3. Upon a written complaint made by the SI to the Commandant, CISF Unit HEP Uri [*Unit*], the petitioner was placed under suspension in exercise of powers conferred by Rule 33(1) of the CISF Rules, 2001 [*CISF Rules*] by the Enquiry Officer whereafter a departmental enquiry was initiated against the petitioner on 03.11.2015. Eventually, the petitioner was transferred to CISF 7th RB Kishtwar on 26.11.2015.

4. The Disciplinary Authority agreeing with the findings of the Enquiry Officer removed the petitioner from service on 12.05.2016.

5. The petitioner filed an appeal against the order dated 12.05.2016 of the Disciplinary Authority before the Deputy Inspector General, CISF North Zone-1 HQRs, being the Appellate Authority. The said Appellate Authority, vide its order dated 03.08.2016, despite agreeing with the factual matrix involved therein and after noting the short span of service and young age of the petitioner, reduced the penalty of '*Removal from service*' to '*Reduction of pay by three stages*' for a period of three years with direction of no increment during the period of reduction. In continuation thereof, the Appellate Authority on 14.09.2016 also upheld its proposal of treating the intervening period of 13.05.2016 to 15.08.2016 i.e. period of removal from service as '*Dies Non*' on the principle of '*No Work No Pay*'.



6. The aforesaid led to filing of a Revision Petition against the order dated 03.08.2016 before the Inspector General, CISF North Sector, being the Revisional Authority, by the petitioner. The Revisional Authority has by minutely going through every single averment made by the petitioner in his revision petition as well as entire proceedings, was of the view that the appellate authority who had reinstated the petitioner in service by reducing the penalty may not have considered the gravity of the charges in true and right perspective invoked his power under Rule 54 of the CISF Rules and issued a show-cause notice dated 31.10.2017 proposing to enhance the penalty to that of “dismissal” from service. Reply thereof was given by the petitioner on 01.12.2017. The Revisional Authority, vide order dated 16.01.2018, modified the aforesaid order and the petitioner was removed from service.

7. This led to filing of an appeal against the order dated 16.01.2018 before the Director General, CISF, by the petitioner. However, the Director General, CISF, vide the impugned order dated 11.07.2018, rejected the appeal of the petitioner.

8. Thus, the present petition. The learned counsel for the petitioner, amongst the various grounds urged, primarily submits that the internal departmental inquiry was biased with the aim to implicate the petitioner and that no eye witness or independent witness has corroborated the testimony of wife of the SI. He also submits that the petitioner was disallowed from leading any evidence in his favour and also that the petitioner was transferred to CISF 7th RB Kishtwar to purposely withhold him from presenting an effective defense.



9. Learned counsel for the petitioner further submits that wife of the SI was suffering from hysteria and mental disorder and her testimony is *per se* unreliable as also that under Rule 52(2) of the CISF Rules it is clearly laid down that the Appellate Authority must consider whether the findings of the Disciplinary Authority are warranted on the basis of the evidence on record whereas the Departmental Enquiry Report wrongly based its findings on fictitious witness testimonies.

10. *Per contra*, learned counsel for the respondents submits that the revision by the Revisional Authority is not *ultra vires* as the petitioner was given adequate opportunity to present his defense at all stages of the proceedings and that under Rule 54 of the CISF Rules, the Revisional Authority has powers to take *suo moto* cognizance. He lastly submits that the petition is not tenable as the departmental inquiry and subsequent proceedings were in accordance with law and natural justice.

11. This Court has heard the learned counsels for the parties and perused the documents on record.

12. A careful perusal of the evidence recorded in the present case reveals that wife of the SI had categorically stated in her statement that the petitioner came to her quarter in absence of her husband and molested her and that the same was also confirmed by the statement of another witness (PW-06), who stated that the wife of the SI came to her quarter in scared condition and told her that petitioner had burgled into her quarter and molested her. Moreover, as per another witness (PW-05), the petitioner was very much abusing SI Gupta in front of



his quarter and it was also established by the Enquiry Officer that the petitioner had threatened SI Gupta and his wife to kill them with his AK-47 rifle.

13. As per order dated 03.08.2016 passed by the Appellate Authority, though the above said factors were duly considered and it was recorded that “... ..taking into entirety of the case, I came to a conclusion that though the penalty of Removal From Service awarded to the appellant by the disciplinary authority is as per rule... ..” but the punishment imposed vide order dated 12.05.2016 of the Disciplinary Authority was modified as it was felt that “... .. though the penalty of Removal from Service awarded to the appellant by the disciplinary authority is as per rule, yet considering his short span of service, young age and future prospect it appears to be on higher side. He deserve one more chance to show positive improvement. As such, a lenient view is taken this time with the intention to provide him one more opportunity to improve his discipline/conduct”.

14. Finding the Appellate Authority had modified the penalty imposed by the Disciplinary Authority without any specific reason, in our considered opinion, the Revisional Authority, exercising its powers under Rule 54 of the CISF Rules, rightly modified the same vide its order dated 16.01.2018.

15. Thereafter, the same was challenged by the petitioner before the Director General, CISF, who by virtue of the well-reasoned order, which is impugned before this Court, after taking into consideration all the aforesaid factors, upheld the order passed by the Revisional Authority without any interference thereto.



16. While adjudicating the present petition, this Court finds that all the contentions raised by the petitioner before this Court have already been duly considered, amply dealt with and adjudicated upon by the Forums below and there is nothing different/ new herein. The petitioner is merely reagitating the every same contentions which have already negated by the Forums below. The same is not permissible under the facts involved herein, Moreso when this Court is dealing with a case wherein the petitioner, knowing fully well that he belonged to the Armed Forces which called for due care and precaution, ought to have been rather upright, if not, more careful. On the contrary, the conduct of the petitioner as borne out herein, especially when he was belonging to the Armed Forces, was highly unbecoming and gives no reason to call for any kind of interference by this Court.

17. Thus, in the considered opinion of this Court, it would not only be in the interest of justice but also in the interest of all those hailing from the Armed Forces that the impugned order is not set aside lest it may amount to sending wrong signals.

18. Accordingly, the present petition being without any merit is dismissed, leaving the parties to bear their own costs.

SAURABH BANERJEE, J.

V. KAMESWAR RAO, J.

JANUARY 09, 2024/rr