



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

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Date of decision: February 15, 2024

+ W.P.(C) 14212/2022

(14) JAI RAM

..... Petitioner

Through: Mr. Saroj Kr. Singh, Adv.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Ms. Ritu Beniwal, SPC with Mr. Mimansak Bhardwaj, GP and Mr. Mahendra Kumawat, Adv. with Mr. Amit Kumar (SI/E) and Mr. T. M. Singh (HCL/CISF)

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

SAURABH BANERJEE, J. (ORAL)

1. As per facts, the petitioner was appointed in Central Industrial Security Force (*CISF*) in the rank of Constable/GD on 16.06.1994 based on a ST/ Tribe Certificate issued by Tehsil Office, Tehsil Khajni, Gorakhpur dated 02.02.1992. However, at the time of his promotion-cum-posting whilst re-verification of his caste certificate after almost 26 years of service, it was found to be forged. This led to issuance of a Charge Memorandum dated 26.11.2018 under Rule-36 of CISF Rules, 2001 by the Group Commandant, CISF Group HQ, Prayagraj-respondent no.6 to the petitioner.



2. Receiving no reply, an Enquiry Officer was appointed to conduct a Departmental Enquiry against the petitioner. Despite receiving four notices dated 03.01.2019, 10.01.2019, 18.01.2019 and 24.01.2019 from the Enquiry Officer, the petitioner neither joined the proceedings nor the Unit as he was ill. However, when he later joined the Unit on 25.02.2019, he was given due chance to represent himself in the enquiry proceedings. Thereafter, the Enquiry Officer submitted a report dated 30.03.2019 to the Disciplinary Authority alongwith a copy to the petitioner, against which he made a representation to the Group Commandant, CISF HQ, Kalindipur, Prayagraj on 30.04.2019 alongwith a fresh e-caste certificate dated 26.11.2018, this time issued by the Jan Seva Kendra. Incidentally, this subsequent Caste Certificate was also, on verification, found to be forged. This led to issuance of a fresh Enquiry Report dated 22.05.2019 to the petitioner, to which, the petitioner never sent any representation before the expiry of the stipulated period. It was then that the petitioner was dismissed from service on 12.06.2019 by the Disciplinary Authority.
3. Hence, the petitioner filed the present writ petition seeking quashing of the order of the respondents dated 12.06.2019 and 28.02.2020 as also reinstatement of his service.
4. Learned counsel for the petitioner primarily submits that the caste certificate of the petitioner was previously verified on four previous occasions, when it was found to be authentic on the directions of Commandant CISF, Unit Tanda, Ambedkar Nagar, Uttar Pradesh-respondent no.5 as also that the petitioner was also not given sufficient chance to defend himself.



5. *Per-Contra* learned counsel for the respondents submits that the present Court lacks territorial jurisdiction since it was the Group Commandant, CISF HQ, Kalindipur, Prayagraj who imposed the punishment and as the revision petition was preferred by the petitioner thereagainst, considered and rejected by the Inspector General, CISF, ES, HQ, Ranchi-respondent no.3 there. As such, the territorial jurisdiction shall lie with the Hon'ble Allahabad High Court and not this Court. He further submits that the petitioner was granted sufficient opportunities to represent himself even when he joined the Unit after returning from leave and his fresh caste certificate dated 26.11.2018 submitted by alongwith his review petition was also verified and was found to be fake.

6. This Court has heard the learned counsel for the parties and have perused the documents on record as well.

7. A perusal of the record reveals that the petitioner has been held guilty of repeated misconducts. Further, admittedly, the petitioner by way of the present petition, only impugns the two orders dated 12.06.2019 and 28.02.2020 passed by the respondents, and has neither raised any doubt in the manner the proceedings conducted by the respondents nor questioned the process adopted by them, nor alleged that the respondents have acted prejudicial to his interest.

8. Moreover, all the contentions raised by the petitioner herein are similar to those raised before the respondents, which have already been negated and turned down by them. In any event by way of present petition the petitioner is merely seeking pardon of his continuous wrong spread over a period of time, which is not under the purview of Judicial Review under Article 226 of the Constitution of India. Furthermore, the



petitioner, by way of the present petition, is making one more effort to (re)agitate and (re)argue those very same contentions which have since not only been duly negated by the forum below but have also been upheld by another higher forum as well. Needless to say, as trite law the same is not permissible, more so, whence this Court is neither acting as an Appellate Court or a Revisional Court and is in fact not a fact-finding authority who is to or can either re-appreciate the genuineness or otherwise go into the evidence or make alterations or corrections unless there is something gravely wrong and shocking to the conscience of the Court. Reliance is placed upon and ***Chairman cum Managing Director, Coal India Limited & Anr. vs. Mukul Kumar Choudhuri & Ors.*** (2009) 15 SCC 620. The same view has since been reiterated in ***Pravin Kumar vs. Union of India*** (2020) 9 SCC 471; ***Bharat Coking Coal Limited & Ors. vs. AMR Dev Prabha & Ors.*** (2020) 16 SCC 759; ***State Bank of India vs Ajai Kumar Srivastava*** (2021) 2 SCC 612.

9. Furthermore, the scope of Judicial Review in matters of the present kind are extremely limited, especially, whence the enquiry has been held by a competent authority as per the prescribed procedures, rules and regulations and which have neither been doubted nor questioned; and where there is nothing done in violation of the principles of natural justice; and where the competent authority has taken note of the factual matrix as also the surrounding circumstances and the evidence on record; and where there is nothing arbitrary, capricious or like to call for interference by this Court. Reliance is placed upon ***Union of India & Ors. vs P. Gunasekaran*** (2015) 2 SCC 610 wherein the Hon'ble Supreme Court has expressly laid down the features for the High Court to consider



while dealing with a petition like the present one under Article 226 of The Constitution of India.

10. It emerges from the facts involved herein, that there is nothing on record which is/ are, or can be, sufficient to move the conscience of this Court, moreover, since the petitioner herein has all throughout been silent as to why he has been acting voluntarily/intentionally of producing certificates which are *allegedly* forged or why he did not reply to the charge memorandum with reasonable time or why he did not join the proceedings despite receipt of notice(s) by the Enquiry Officer or why he did not revert within the stipulated period. The silence of the petitioner creates a doubt and leads this Court to infer that he not only accepted his repeated misconducts but for reasons best known to himself, he has been playing hide and seek and evading what he was required to do, at various stages from time to time.

11. A 'wrong' is a 'wrong' and when there are more than one 'wrong', which is the case in the present facts, the same certainly rings a bell in the minds of this Court. In any event, none of the misconducts of the petitioner spread over a long period of time can be rectified or corrected now especially, at this belated stage as the clock cannot be unwound or turned back, more so, whence he cannot erase the slate clean.

12. In any event, this Court while dealing with person belonging to the Armed Forces has to be more careful, vigilant, stringent, cautious and thoughtful.

13. In view thereof, this Court finds no fault with the well-reasoned orders passed by the respondent no.6 affirmed by the respondent no.3.



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14. Accordingly, this Courts find that the impugned orders are calling for no interference, the present petition alongwith the pending applications is dismissed. No order as to costs.

SAURABH BANERJEE, J

V. KAMESWAR RAO, J

FEBRUARY 15, 2024/So