



2024:DHC:9120-DB



\$~2

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 26.11.2024

+ W.P.(C) 9102/2024
EX CT /DVR JITENDER KUMARPetitioner
Through: Mr.Randhir Singh Kalkal, Adv.

versus

UNION OF INDIA & ORS.Respondents
Through: Mr.Anil Kumar Saxena, SPC,
Mr.Rajendra Kr. Rawat, GP
with Mr.Sourabh Bhushan, Law
Officer-CRPF.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

1. This petition has been filed by the petitioner challenging the Order dated 20.12.2022, by which the Revision Petition filed by the petitioner, challenging the punishment of dismissal from service, was rejected by the Competent Authority, that is, the Director General, Rapid Action Force, CRPF.
2. The learned counsel for the petitioner submits that the respondents have failed to appreciate that the Charge in the departmental inquiry against the petitioner was that he allegedly travelled in a truck which was carrying unauthorized liquor in Gujarat in violation of the prohibition. For the same offence, the petitioner had also been prosecuted in a criminal trial, which resulted in his



2024:DHC:9120-DB



discharged by way of order dated 12.03.2022 passed by the learned Additional Chief Metropolitan Magistrate, Ahmadabad, in Criminal Case No.123/2023. The learned counsel for the petitioner submits that once the petitioner was acquitted of the charges in the criminal trial, the order dismissing the petitioner from service was no longer sustainable and was liable to be recalled.

3. In the facts of the present case, we do not find any merit in the contentions raised by the learned counsel for the petitioner. The petitioner was proceeded against by way of a Departmental Enquiry on the following three charges:

“ITEM - I

Force No. 025110261 Ct/Driver Jitendra Kumar 100/Battalion RAF CRPF Vastral Ahmedabad has committed misconduct in his capacity as being a member of the force under section 11(1) of the CRPF Act 1949. He was posted with a platoon of A/100 BN RAF at district Kheda for a familiarization exercise on 24/07/2012 at about 17:00 Hrs, he absconded from Police Line Kheda without the permission of any Presiding Officer which was contrary to the orders and discipline of the force is unfavorable.

ITEM-II

That Force No. 025110261 Ct/Driver Jitendra Kumar 100 Battalion RAF/C.R.P.F. Vastral, Ahmedabad while serving on the above mentioned post, being a member of the force had committed the misconduct/act, under section 11(1) of the CRPF Act, 1949 wherein the personnel was run away from the police line Kheda and found in a Tata truck registration number HR-61-5328 which is his relative's truck and the person traveling in the truck is his relative/acquaintance, traveling with 3516 bottles of illegal liquor which was



2024:DHC:9120-DB



being brought hidden in the box of the generator, caught by the Crime Branch of Ahmedabad police on 25/7/12 at 03:30 hrs. Thereafter, under the Prohibition Act's section 66 (B): 65 A.E, after registering a case u/s 116(B), he was kept in judicial custody which is a conduct prohibited under rule-3(c) of the Central Civil Services (Conduct) Rules, 1964 for a government servant.

ITEM-III

That Force No. 025110261 Ct/Driver Jitendra Kumar, 100 Battalion/ RAF/ CRPF, Vastral, Ahmedabad while serving on the above mentioned post, being a member of the force had committed the misconduct/act, under section 11(1) of the CRPF Act, 1949 wherein the personnel was run away from the police line Kheda and found in a Tata truck traveling with 3516 bottles of illegal liquor and caught by the Crime Branch of Ahmedabad police, thereby tarnishing the image of the force. This act of the personnel is against the orders and discipline of the force."

4. From the reading of the above, it would be apparent that the first charge against the petitioner was that he had left his post and absconded from the Police Line Kheda without the permission of the Presiding Officer, which was contrary to the orders and discipline of the Force. Though the petitioner was also charged of having been found in a truck which, according to the respondents, belongs to the relative of the petitioner and in which the liquor was being carried, that was not the only charge against the petitioner in the departmental inquiry. As against this, the criminal prosecution against the petitioner was only on the charge of carrying liquor illegally and without a permit. Therefore, mere discharge of the petitioner in the criminal trial



2024:DHC:9120-DB



would not have an effect on the action against him in the disciplinary proceedings.

5. We may note that the petitioner has earlier availed of all his statutory remedies against the disciplinary action, which he seeks to re-open only on the ground of his discharge in the criminal case.

6. Accordingly, we do not find any merit in the present petition. The same is dismissed.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 26, 2024/Arya/DG

Click here to check corrigendum, if any