



2024:DHC:9135-DB



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

+ W.P.(C) 9515/2024 & CM APPL. 39028/2024

ASST COMDT AMIT ANAND PANDEYPetitioner
Through: Mr.Anuj Aggarwal, Mr.Vikrant
Chawla, Mr.Yash Upadhyay
and Mr.Siddhant Dutt, Advs.

versus

UNION OF INDIA & ANR.Respondents
Through: Ms.Kangan Roda, SPC with
Mr.Ajay Pal, Law Officer,
CRPF
Mr.Shiv Kumar Singh, Pairvi
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 praying for the following reliefs:

“a) issue a Writ of Certiorari quashing the enquiry report dated 30.08.2021 issued by the Inquiry Officer, the same being perverse;
(b) issue a Writ of Certiorari quashing the UPSC advice dated 25.04.2022 issued by the Deputy Secretary, UPSC;
(c) issue a Writ of Certiorari quashing the Note dated 27.12.2023 issued by the DoPT, conveying the resolution of the Disagreement by the Competent Authority, vide which the Hon'ble PM decided to resolve the



disagreement by agreeing with the proposal of the Disciplinary Authority i.e. MHA to impose the penalty of "Dismissal from service" on the Petitioner;

(d) issue a Writ of Certiorari quashing the letter dated 13.03.2024 issued by the Directorate General, CRPF conveying to the Petitioner the arbitrary grounds on which the Disciplinary Authority tentatively disagreed with the UPSC advice;

(e) issue a Writ of Mandamus directing the Respondents to regularize the period of absence of the Petitioner in accordance with Rule 25(1) of the CCS (Leave) Rules"

2. It is the case of the petitioner that the petitioner joined the Central Reserve Police Force (CRPF) in the post of Assistant Commandant in September, 2015. By way of an application dated 19.01.2018, the petitioner applied for leave of a period of 60 days with effect from 20.02.2018 to 20.04.2018. The said leave was duly sanctioned in his favour by the Competent Authority *vide* Office Order dated 06.02.2018. The petitioner, however, on the expiry of his leave period could not join his duties as he was diagnosed with severe jaundice and was advised complete rest. He, therefore, applied for an extension of leave by another 15 days. The extension was rejected by the respondent no.2, *vide* letter dated 09.05.2018. Thereafter, the petitioner repeatedly sought extension of his leave due to the ill health of his father. On 05.11.2019, a Memorandum of Inquiry was issued against the petitioner under Rule 14 of the CCS (CCA) Rules, 1965, on account of his alleged overstay on leave with effect from 21.04.2018. The petitioner submitted his statement of defence on 28.12.2019. As it was difficult for the petitioner to appear in the



preliminary hearing, *vide* letter dated 12.07.2020, he requested for the postponement of the same. On 22.07.2020, he was informed that departmental inquiry proceedings were being conducted against him *ex-parte*, and the statements of certain prosecution witnesses would be further recorded from 10.08.2020 to 20.08.2020. The petitioner eventually re-joined his duties in October, 2020. He further claims that after joining back his duties, his ACRs for the subsequent years have been graded either 'very good' or 'outstanding'.

3. The Inquiry Officer, in his report dated 30.08.2021, found the petitioner guilty of the charges.

4. After considering the inquiry report, the UPSC recommended a penalty of 'Reduction to a lower stage in the time-scale of pay by two stages for a period two years with further directions that he will not earn increments of pay during the period of reduction and that on the expiry of such period, the reduction will have the effect of postponing the future increments of his pay'.

5. The petitioner claims that though he was aggrieved of the recommendation of the UPSC, he decided not to challenge the same. However, to the utter shock and surprise of the petitioner, he was served with a Disagreement Note dated 13.03.2024, issued by the Disciplinary Authority, forwarding therewith a copy of the Disagreement Note dated 27.12.2023 issued by the DoPT.

6. The petitioner, immediately, *vide* letter dated 30.03.2024, sought certain documents in relation to the departmental inquiry proceedings conducted against him, for making a proper representation against the proposed action/penalty. The said request,



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however, was rejected by the respondents *vide* letter dated 21.05.2024. The petitioner claims that even in absence of these documents, the petitioner still submitted his representation against the proposed penalty and is apprehensive that the respondents, without considering the said representation, would impose the harshest penalty on the petitioner.

7. The learned counsel for the petitioner submits that the respondents are acting with a pre-conceived mind. He submits that the respondents are not considering the circumstances which forced the petitioner to extend his period of leave, that is, the ill health of his father and the intervening COVID-19 pandemic. He further submits that there are no reasons for disagreeing with the opinion given by the UPSC on the punishment to be imposed upon the petitioner, which the petitioner is willing to accept. He further submits that the non-supply of the documents sought by the petitioner, violates the principles of natural justice.

8. On the other hand, the learned counsel for the respondents submits that the present petition is premature as a final decision on the representation of the petitioner is yet to be taken by the Competent Authority. She further submits that the documents sought by the petitioner were not only belatedly requested but the demand of the same is also frivolous in nature and made only as an excuse to somehow delay making a representation against the proposed action/penalty. She submits that, in fact, even in the present petition, the petitioner has not made any prayer seeking these documents and rather, the petitioner has already submitted his representation against



the proposed action/penalty. She submits that this in itself shows that the documents sought were not relevant for the said purpose. She submits that, therefore, there is no violation of the principles of natural justice in the present case.

9. We have considered the submissions made by the learned counsels for the parties.

10. At the outset, we agree with the submissions made by the learned counsel for the respondents that the present petition is premature in nature. We do not, from the sequence of events as detailed hereinabove, have any doubt that the respondents will consider the case of the petitioner with an open mind and by keeping in view all the relevant facts and circumstances, including the representation of the petitioner. There is no basis of supporting the submission of the learned counsel for the petitioner that the respondents will act with a pre-conceived mind. In case the petitioner is aggrieved of the final decision taken by the respondents, it is not as if the petitioner would be remediless. He shall be free to avail of his remedies in accordance with law.

11. As far as the merits of the allegations against the petitioner or his reasons for overstay are concerned, the same have to be considered by the Competent Authority, and we would not like to pre-judge the same in any manner. We, therefore, refrain from making any observations thereon.

12. On the issue of violation of the principles of natural justice, while we do *prima facie* find merit in the submissions made by the learned counsel for the respondents that the same has been used only



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as an excuse to somehow delay making a representation against the proposed action/penalty, inasmuch as even in the present petition, the petitioner has not made any prayer seeking these documents, at the same time, having perused the nature of the documents that the petitioner was seeking, we deem it appropriate to direct the respondents to supply these documents to the petitioner within a period of two weeks from today.

13. In case the petitioner wishes to make any further representation on receipt of these documents, the petitioner shall be entitled to do so within a period of two weeks thereafter. The respondents shall consider such further representation of the petitioner, if any, while taking a final decision.

14. With the above observations and directions, the petition is disposed of. The pending application also stands disposed of.

NAVIN CHAWLA, J

SHALINDER KAUR, J

NOVEMBER 26, 2024/sg/SJ

Click here to check corrigendum, if any