



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

% Date of decision: January 25, 2024

+ W.P.(C) 10945/2019

VAIJINATH

..... Petitioner

Through: Ms. Saahila Lamba, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms. Sarika Singh, Sr. Panel Counsel
with Constable Lalit Nayak

AND

+ W.P.(C) 10946/2019

T E METEI

..... Petitioner

Through: Ms. Saahila Lamba, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Vijay Joshi, Sr. Panel Counsel
with Mr. Shubham Chaturvedi, Adv.
with Constable Lalit Nayak.

AND

+ W.P.(C) 10970/2019

PAWAR SAGAR BABAN

..... Petitioner

Through: Ms. Saahila Lamba, Adv.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms. Sarika Singh, Sr. Panel Counsel
with Constable Lalit Nayak

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE



V. KAMESWAR RAO, J. (ORAL)

1. The challenge in these three petitions is to orders dated April 30, 2016 and June 04, 2016 of the Disciplinary Authority and orders of Appellate Authority dated October 25, 2016, November 8, 2016 and orders passed by Revisional Authority dated October 31, 2016, respectively.
2. The facts as noted from the record are, while working as Constable in Central Industrial Security Force ('CISF', for short) chargesheets dated January 25, 2016 were issued to the petitioners for certain misconduct. The charges framed against the petitioners have been proved, which have resulted in the penalty of removal from service of the petitioners. The appeals and revisions filed by them to the respective statutory authorities were also rejected.
3. The only plea urged by Ms. Saahila Lamba, learned counsel appearing for the petitioners is that, SI Kapil Singh Chaudhary, who was also chargesheeted for identical charge though was imposed penalty of removal by the Disciplinary Authority, which order was also upheld by the Appellate Authority but the Revisional Authority has reduced the punishment by holding as under:

“AND WHEREAS, I have carefully gone through the case records and the submissions made by the petitioner in the revision petition and found that there is acute laxity in the performance of the petitioner as Incharge QRT. But keeping in view of his experience, young age and short span of service in CISF, and to give him another opportunity to serve the force, I am inclined to take a lenient view and hereby modify the penalty of ‘Removal of service’ awarded to him by the DIG CISF, BCCL, Dhanbad, vide order dated 30.04.2016 to that of “Reduction of



pay to the lowest stage in the PB-2 with Grade Pay of Rs.4200/- for a period five years with further direction that he will not earn increments of pay during the period of reduction and on expiry of such period, the reduction will have the effect of postponing his future increments of pay.”

4. It is her submission that the petitioners who are also identically placed like SI Kapil Singh Chaudhary are also entitled to a parity, inasmuch as in their case also, the penalty of removal should be modified / reduced to that of reduction of pay to a lower scale for a period of two years as was done in the case of SI Kapil Singh Chaudhary. She has drawn our attention to the reasoning given by the Revisional Authority for reducing the penalty in case of SI Kapil Singh Chaudhary that he is inexperience, young age and short span of service in CISF, which are applicable to the petitioners herein also. In fact, she has shown pleadings wherein similarity between SI Kapil Singh Chaudhary and the petitioners have been highlighted. In fact, it is her submission that SI Kapil Singh Chaudhary was also present at the spot, like the petitioners, which incident became the subject matter of charge. The stand now taken by the counsel for the respondents that, SI Kapil Singh Chaudhary had come five minutes before the Raiding Team had arrived is not tenable, as he was also part of the QRT and was present throughout and his presence was also noted by the Raiding Team. In other words, it is her submission that the petitioners are entitled to parity on all counts.

5. Additionally she states, on the basis of reduction of penalty in the case of SI Kapil Singh Chaudhary, petitioners have got issued a legal notice seeking parity qua the penalty imposed on SI Kapil Singh Chaudhary as referred to above. The said legal notice was replied to by the respondents



stating that, as the revision petition has already been dismissed qua all the petitioners, hence no interference is warranted. She has also placed reliance on the judgment in the case of ***Rajendra Yadav v. State of M.P. & Ors., Civil Appeal No. 1334/2013***, to contend that even in departmental proceedings / penalty / punishment, parity need to be maintained qua the co-delinquents if the misdemeanor is same.

6. On the other hand, learned counsel appearing for respondents would contest the submissions made by Ms. Lamba by stating that the petitioners are not identically placed like SI Kapil Singh Chaudhary. She also highlights the fact that the Revisional Authority while passing the order in the case of SI Kapil Singh Chaudhary has noted that he is young, less experience and has short span of service in CISF as factors which mitigate the misdemeanor on his part.

7. Having noted the submissions made by the learned counsel for the parties and also the judgment relied upon by Ms. Lamba, we are of the view that the aspect of parity in respect of punishment is concerned, the same has not been considered by the Revisional Authority of the petitioners for the reason, when the revision petition of SI Kapil Singh Chaudhary was decided in his favour, the Revision Petitions of the petitioners had already been decided. In that sense, the petitioners did not have the benefit of their authority considering the plea of the petitioners of parity qua SI Kapil Singh Chaudhary.

8. Since the parity is the only plea urged by Ms. Lamba, we direct the Revisional Authority of the petitioners to consider the said issue and decide the same within a period of 12 weeks as an outer limit by referring to the record of the petitioners as well as that of SI Kapil Singh Chaudhary and



2024:DHC:568-DB



pass a reasoned / speaking order.

9. It is made clear, the order to be passed by the Revisional Authority shall be treated as a final order and the petitioners shall not re-agitate the issue in fresh proceedings, as we are of the view that the petitioners have otherwise not contested the findings in the enquiry against them. The petition stands disposed of.

V. KAMESWAR RAO, J

SAURABH BANERJEE, J

JANUARY 25, 2024/jg