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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 14.08.2024*

+ W.P.(C) 12649/2019 & CM APPL. 41469/2021 -Dir. by Petr., CM
APPL. 64556/2023 -Dir. by Petr.
RAM NIWASPetitioner

Through: Dr.Nirmal Chopra, Adv.

versus

PRINICIPAL CHIEF SECURITY COMMISSIONER AND ANR.

.....Respondents

Through: Ms.Ridhima Gaur, Adv.

CORAM:**HON'BLE MS. JUSTICE REKHA PALLI****HON'BLE MS. JUSTICE SHALINDER KAUR****REKHA PALLI, J (ORAL)**

1. The petitioner, who is serving in the Railway Protection Force (RPF), as a Constable has approached this Court under Article 226 of the Constitution of India assailing the order dated 09.11.2018 passed by the respondents in so far as it directs that the modified penalty of reduction by three stages in the existing pay of scale for a period of three years with cumulative effect would come into force with effect from the date of passing of the said order.

2. Vide the impugned order, the disciplinary authority while allowing the petitioner's representation for setting aside of the dismissal order dated 16.06.2008 on the basis of his acquittal in the criminal proceedings on 02.05.2017, has directed that he be reinstated in service without any backwages and his pay be reduced by three stages for a period of three years



with cumulative effect.

3. After some arguments, learned counsel for the petitioner submits that while the petitioner does not dispute that there was some negligence on his part in handling the Dog 'Kenny', the penalty imposed by the respondents vide the impugned order dated 09.11.2018 is shockingly disproportionate. He submits that as a result of the said penalty, a situation has arisen whereby even after service of more than 23 years in the RPF, the petitioner's pay scale has been reduced to that of a fresh entrant in service. Furthermore, once the respondents accepted the petitioner's plea that based on the decision dated 02.05.2017 of the Criminal Court he was entitled to be reinstated; the said modified penalty order issued on 09.11.2018 had to relate back to the date of the original penalty order i.e. 16.06.2008, when the petitioner was dismissed from service. He further submits that the petitioner would be satisfied in case this Court were to clarify that the penalty imposed on the petitioner of reduction by three stages in the existing scale of pay for a period of three years with cumulative effect, would come into force w.e.f. 16.06.2008 as against from 09.11.2018, which the impugned order directs. He, therefore, prays that the writ petition be allowed by issuing the said clarification.

4. On the other hand, learned counsel for the respondents seeks dismissal of the writ petition and submits that once the petitioner does not deny that he was negligent in handling the dog while discharging his duties as a part of the Dog Squad, RPF, he does not deserve any further indulgence when the respondents have already taken a lenient view and recalled the dismissal order by imposing a modified penalty on him.



5. Having considered the submissions of learned counsel for the parties and perused the record, we find that taking into account that the petitioner is now limiting his prayer for directions to the respondents to enforce the modified penalty as imposed on 09.11.2018 w.e.f. the date of the original penalty i.e. 16.06.2008, we need not examine the factual matrix of the present case, in respect whereof the parties are even otherwise not at variance.

6. In order to have clarity regarding the period for which the modified penalty will be enforced, we have enquired from the learned counsel for the respondents as to whether the effect of the petitioner's pay reduction by three stages in the existing scale of pay for a period of three years with cumulative effect would imply that his pay would stand reduced forever. She replies in the negative and submits that after three years of the date of imposition of the penalty his pay scale would stand restored. In the light of this stand taken by the respondents, it is evident that the pay scale of the petitioner would stand restored after three years from the date of imposition of the penalty.

7. Having noted the stand of the respondents, we now proceed to examine the petitioner's plea that the modified penalty should take effect from the date of original penalty of dismissal imposed on him. Taking into account that it is the own case of the respondents that the penalty now imposed on the petitioner vide order dated 09.11.2018 will be in substitution of the penalty of dismissal earlier imposed on him on 16.06.2008, we are of the view that the petitioner is correct in urging that this modified penalty must take effect from the date of the original penalty.



8. In this regard, it would be apposite to refer to the following directions issued by the Apex Court in ***NTR University of Health Sciences v. L. Prakasam Reddy, (2016) 16 SCC 645***, wherein it was directed that the substituted penalty will take effect from the date of the original penalty.

“4. Having heard the learned counsel appearing for the appellant University and also the counsel for the respondent, we are of the view that interest of justice would be served, in case the judgment of the learned Single Judge dated 9-3-2007 [L. Prakasam Reddy v. University of Health & Science, WP No. 9166 of 1997, decided on 9-3-2007 (AP)] is implemented by substituting the punishment of dismissal/removal by any other suitable punishment. The substituted punishment will take effect from the original date of the punishment viz. 5-3-1997. The monetary benefits, if any, flowing out of substituted punishment shall be disbursed to the respondent including the pensionary benefits, if any, within the period of 10 weeks from today. The arrears, if any, shall carry interest @ 6% per annum with effect from 5-3-1997.”

9. In the light of the aforesaid, the petitioner’s prayer for directing that the penalty of reduction of his pay by three stages in the existing scale of pay for a period of three years with cumulative effect, will be treated as being effective w.e.f. 16.06.2008 deserves to be accepted. We, accordingly, allow the writ petition partly by directing that the penalty imposed on the petitioner would be deemed to have come into effect from 16.06.2008 and would, therefore, run its course on 15.06.2011 i.e. after a period of three years. Consequently, the respondents will grant notional pay fixation to the petitioner after restoring his original pay scale w.e.f. 16.06.2011. However, consequential arrears, if any, in terms of this notional pay fixation will be



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payable to the petitioner only w.e.f. 18.11.2018, when he was actually reinstated in the service pursuant to the order dated 09.11.2018. The exercise in terms of this order be carried out within a period of eight weeks.

10. The petition along with pending applications stands disposed of in the aforesaid terms.

(REKHA PALLI)
JUDGE

(SHALINDER KAUR)
JUDGE

AUGUST 14, 2024
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