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IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision:- 26.07.2024***

+ W.P.(C) 598/2020

RAM KARAN

.....Petitioner

Through: Mr. R.S. Gautam, Adv.

versus

UNION OF INDIA & ANR

.....Respondents

Through: Ms. Archana Gaur, SPC with Ms. Ridhima Gaur, Adv. And Ms. Shrinidhi Davesb Tripathi, DC, SI Prahlad Devenra, SI Anil Kumar and SI Hasim, CISF.

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

1. The petitioner, a Constable (General Duty) in the Central Industrial Security Force (CISF) has approached this Court under Article 226 of the Constitution of India seeking the following reliefs:

(a) For conversion/ toning down of the major penalties into minor penalties as offences are very minor/ minimal as quoted above in the interest of justice and equity, because it is causing cumulative loss of complete 4 years of service in the career and dies non (break in service), for raising voice against allegation of tortures in state of deep depression;

(b) Prays for ordering for deletion of the punishment of dies non (break in service) to avoid the double jeopardy which are in violation of article 20 of the Constitution of India in the Interest of justice and equity and deliver the justice humanely because



in administrative law, even law bends before justice" Supreme Court of India (1993 Supp (4) SCC 595)"

2. The brief factual matrix of the matter, as emerging from the record, may be noted at the outset. The petitioner joined the CISF in the year 1997 as a Constable and while being posted at CISF Unit, GNPT, Sheva, he on 04.02.2013, submitted a complaint to his Senior Commandant alleging therein that Inspector Pradeep Singh was allocating him extra duties and had threatened him on 31.01.2023 with dire consequences. On the very next date, he filed a complaint against Inspector Pradeep Singh with the Police Station Nawahar Sheva for lodging an FIR against him. It may be noted that the petitioner had even earlier on 19.12.2012 submitted a complaint to his Unit Commander alleging therein that Inspector Rajiv Pandey had disallowed leave to him on 14.01.2013 despite the same being a Gazetted holiday. After a preliminary enquiry was conducted on all his complaints, it prima facie transpired that the petitioner had submitted false complaints against his superior officers and therefore on 06.06.2013 he was issued a charge sheet under Rule 36 of CISF Rules 2001 on the following three charges:

"CHARGE-1

CISF No. 974280132 Constable Ram Karan has submitted representation dated 04.02.13 and made false allegation against Inspector/Exe Pradeep Singh and with the intention to put pressure on unit administration he has submitted an application to Police Station, Seva to file FIR on 05.02.13. His above act tantamount to Gross Misconduct and serious indiscipline.

CHARGE-2

CISF No. 974280132 Constable Ram Karan earlier also on 29.12.2012 made false allegation against Inspr/Exe. Rajeev



Pandey, Reserve Inspector by submitting an application that the latter had corrected GH on 14.01.13 in leave certificate and delayed Issue of leave certificate to him. Making false allegation against senior officer without knowing fact shows his Gross misconduct and serious indiscipline.

CHARGE -3

CISF No. 974280132 Constable Ram Karan, during his up to date service he was awarded 07 minor punishments under CISF Rules-2001 for various indiscipline activities and had been given opportunity to mend his attitude and not to repeat indiscipline activities in future but he failed to mend his attitude which shows that he become habitual in indulging himself in indiscipline activities.”

3. Upon the petitioner denying these charges, a departmental inquiry was initiated against him. However, since the petitioner did not cooperate with the inquiry officer, he was proceeded ex-parte and a report was submitted holding him guilty of all the three charges. Based on the findings of the inquiry report, the petitioner was vide the disciplinary authority's order dated 18.12.2013, awarded a punishment of compulsory retirement from service with full pensionary benefits. The petitioner, thereafter, preferred a statutory appeal which was partly allowed vide order dated 24.01.2014 reducing the penalty imposed on him to stoppage of two increments for two years with cumulative effect and a further direction that the period between the date of his compulsory retirement and his reinstatement will be treated as *dies non*. The petitioner then preferred a revision petition which was rejected on 28.03.2014.

4. After the rejection of his revision petition, the petitioner did not take any step for over 5 years and in the year 2019, approached this Court by way of W.P.(C) No.9171/2019. When the petition came up for preliminary



consideration before this Court in 26.08.2019, the petitioner withdrew the same with liberty to file a fresh petition with a proper explanation for the delay in approaching the Court. It is in these circumstances that the present petition has been filed in January 2020.

5. Learned counsel for the petitioner submits that the delay in filing the writ petition deserves to be condoned as he petitioner had in 2014 itself approached an Advocate practising before the Gujarat High Court, who despite being paid the full fees by the petitioner, did not file any petition. It is only after the petitioner made a complaint with the Bar Council of Gujarat that the fees were returned to him. Further on account of the excessive duties being assigned to him, the petitioner was under depression and therefore prays that the delay in filing the writ petition be condoned.

6. Even though we find that the explanation given by the petitioner is not sufficient to condone the delay and laches on his part in approaching the Court, taking into account that the petitioner has sought to blame his erstwhile counsel, we have proceeded to hear learned counsel for the petitioner on merits.

7. In support of the petition, Mr. R.S. Gautam, learned counsel for the petitioner submits that the penalty imposed on the petitioner was shockingly disproportionate. He submits that the petitioner has not committed any criminal misconduct or dishonest act and had merely raised a bonafide grievance regarding being given 12 hours night duty continuously, that too without any weekly holiday on the purported ground of shortage of staff. He contends that the strength of the Unit CISF was adequate and the favourites of the superiors were being given light duties. It is only when the higher authorities failed to address his grievances that he was left with no other



option but to approach the police station to report the matter. He contends that in these circumstances, the petitioner could not have been awarded any major penalty and at best a minor penalty could have been imposed on him. As a consequence of the penalty of reduction of pay by 2 increments for 2 years with cumulative effect, the petitioner has been denied promotion and is continuing to work on the post of Constable even after 27 years of service. He, therefore, prays that impugned penalty be set aside.

8. Per contra, Ms. Archana Gaur, learned counsel for the respondents supports the impugned order and submits that the case of the petitioner has been dealt with leniently and a compassionate view was taken by the Appellate Authority in reducing his penalty from compulsory retirement to stoppage of two increments. Further the petitioner is, in fact, a habitual offender who was repeatedly found to be indulging in acts of indiscipline, which is evident from the fact that he had earlier been imposed seven minor penalties and does not deserve any sympathy. She, therefore, prays that the writ petition be dismissed.

9. Having considered the submissions of learned counsel for the parties and perused the record, we find that before us the petitioner neither denies that he had made 2 complaints against his superior officers, which were both found to be false, nor denies that he had made a complaint with the local police. He also does not deny that he had been awarded seven minor penalties prior to the incident in question. His only plea before us is that the act of the petitioner in going to the police station to lodge a complaint against his superior officer could not be treated as a misconduct as no heed was being paid to his complaint to the Senior Commandant. Further, he has urged that minor penalties are a regular feature in the CISF and therefore,



even if the petitioner's complaints were found to be false and his act of approaching the police was treated as an act of indiscipline, it was not a case where a major penalty ought to have been imposed on him.

10. Having given our thoughtful consideration to the submissions of the petitioner, we find absolutely no merit in the writ petition. We are unable to accept the submission of learned counsel for the petitioner that the petitioner's misconduct of approaching the police to make a complaint against his superior officer of assigning him extra duties was in any manner trivial and therefore, only a minor penalty ought to have been imposed upon him. We may note that it is the petitioner's own case that he had submitted a complaint against Inspector Pradeep Singh, to the Senior Commandant on 04.02.2013 and on 05.02.2013 itself approached the local police with the prayer to register an FIR against him. During arguments, the petitioner has not even given any explanation for making a complaint against Inspector Rajeev Pandey, which complaint was also found to be false.

11. In a disciplined force like the CISF, the hierarchy of officers has to be respected and if a Constable, just because he feels aggrieved by the senior's direction to giving him extra duties, is permitted to go to the police station to lodge complaints against his superior officers, it will lead to gross indiscipline in the force. We may note that the petitioner was well aware that there were sufficient channels in the Force itself to seek redressal regarding his complaints, but as noted hereinabove, the petitioner did not wait for even one day to await the decision to be taken on his complaint dated 04.02.2013 and rushed to the police station on 05.02.2013 itself without realizing that this act of his was highly detrimental to the overall discipline and image of the Force. Further, there is no explanation forthcoming from the petitioner as



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to why he did not cooperate in the departmental enquiry where both the complaints against his superior officers were found to be false.

12. For the aforesaid reasons, we find no merit in the writ petition which is accordingly, dismissed.

(REKHA PALLI)
JUDGE

(SHALINDER KAUR)
JUDGE

JULY 26, 2024
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