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

+ **W.P.(C) 13829/2024**

RAJ KUMAR

.....Petitioner

Through: **Mr.Swarn Kumar & Ms.Jayanti
Jha, Advs.**

Versus

**DIRECTOR GENERAL, BORDER SECURITY FORCE &
ANR.**

.....Respondents

Through: **Ms.Saroj Bidawat, SPC.
Mr.Hemendra Singh, Dy
Comdt. Law, BSF**

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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01.10.2024

CM APPL. 57940/2024 (Exemption)

1. Allowed, subject to all just exceptions

W.P.(C) 13829/2024 & CM APPL. 57939/2024

2. This petition has been filed challenging the Order dated 13.09.2024, passed by the respondent no. 2, finding the petitioner guilty under Section 20(c) of the Border Security Force Act, 1968 (in short, 'BSF Act'), for using insubordinate language towards his superior officer, and awarding the punishment of 28 (twenty eight) days of rigorous imprisonment in force custody, effective from 13.09.2024 to 10.10.2024. It has further been directed that this period of custody shall be treated as non-qualifying service for the purpose of



pension, and the petitioner shall not be entitled to draw any pay or allowances during this period of custody nor will he be entitled to ration money allowance.

3. The petitioner claims that he had an altercation with HC Rajveer Singh on 12.03.2024. Thereafter, on the same day, both, the petitioner and HC Rajveer Singh, were sent for a medical examination, which reported that neither of them had suffered any physical injuries. However, two days later, on 14.03.2024, they were again sent for another medical examination, during which it was reported that HC Rajveer Singh had suffered a fracture in his thumb. A Staff Court of Inquiry (in short, 'SCOI') was conducted against the petitioner, resulting in the Impugned Order being passed. The petitioner alleges that he has filed an appeal against the Impugned Order, but the appeal is yet to be decided.

4. The learned counsel for the petitioner submits that the petitioner has also not been supplied with all the documents relevant to the inquiry.

5. Issue notice.

6. Notice is accepted by Ms.Saroj Bidawat, learned counsel on behalf of the respondents.

7. The learned counsel for the respondents submits that a SCOI was conducted wherein both the petitioner and HC/Dvr Rajveer Singh were found guilty and disciplinary action was also directed to be initiated against them. It is post that, in the Summary Proceedings, wherein the petitioner pleaded guilty of the offence, that he was punished with 28 (twenty eight) days of rigours imprisonment in force



custody. She submits that this would be a minor punishment in terms of Section 53 of the BSF Act.

8. Considering the limited grievance raised in the present petition, especially keeping in view that the representation/appeal of the petitioner is yet to be decided by the competent authority, we are inclined to dispose of the present petition with the following directions:

- a) The petitioner shall be released from Force Custody with immediate effect but shall remain bound to the Unit concerned.
- b) All documents related to the inquiry, if not already provided, shall be given to the petitioner, with due acknowledgment, within two days.
- c) The petitioner shall be entitled to submit further representation/appeal upon receipt of these documents, to the concerned authority.
- d) The representation/appeal filed by the petitioner, along with any additional representation/appeal that may be filed by the petitioner pursuant to the liberty granted by this court, shall be decided by the concerned authority within two weeks thereafter.
- e) If the representation or appeal is dismissed, further consequential action may be taken against the petitioner, including the petitioner undergoing the remaining sentence.
- f) We clarify that we have not expressed any opinion on the merits of the allegations against the petitioner.



g) If the order passed by the Competent Authority on the representation/appeal is adverse to the petitioner, he may challenge the same in accordance with law.

9. Let this order be forthwith communicated by the respondents to the concerned authorities, including the Unit Commandant, for implementation.

10. The writ petition is disposed of in the above said terms.

11. *Dasti* under the signatures of the Court Master.

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 1, 2024/rv/ns/DG

Click here to check corrigendum, if any