

(2013) 07 DEL CK 0052
In the Delhi High Court
Case No : Writ Petition (C) 2255 of 2013

Balbir Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 08-07-2013

Acts Referred:

Citation : (2013) 6 ILR Delhi 4177

Hon'ble Judges : Gita Mittal, J;Deepa Sharma, J

Bench : Division Bench

Advocate : Durga Prasad, for the Appellant; Barkha Babbar, for the Respondent

Final Decision : Dismissed

Judgement

Gita Mittal, J.

CM No. 4296/2013 (exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

W.P. (C) No. 2255/2013

1. In terms of the last order Ms. Barkha Babbar, has handed over a copy of the original record of the present case which has been produced before us. We have heard learned counsel for the parties. The instant writ petition has been filed by the petitioner assailing an order dated 9th February, 2010 passed by the Commandant-37 Battalion, CRPF, A.D. Nagar, Agartala, Tripura-the respondent No. 2 whereby the petitioner has been compulsorily retired from service.

2. It is undisputed that the petitioner was appointed as a driver with effect from 8th July, 1991 by CRPF. It appears that there was an incident on 3rd October 2009 in the Battalion in which after the Marker March, the petitioner started screaming and came and stood in front of Sh. Anil Kumar, Deputy Commandant (Motor Transport Officer) threatening him that the officer was misbehaving with

the petitioner; that he would realise the petitioner's political influence and that he would have him set right in his village. Sub Inspector Umashankar Yadav, had intervened and explained to the petitioner that he must behave in a disciplined manner at which the petitioner threatened Sh. Umashankar Yadav that he would pump 35 rounds of his carbine. The petitioner is alleged to have behaved in an utmost indisciplined manner.

3. In view of this conduct the petitioner was allegedly suspended with effect from 3rd October, 2009. The petitioner was served with the charge sheet dated 26th October, 2010 and was informed that disciplinary proceedings were contemplated against him by a covering letter of the same date. By an order dated 9th November, 2009, the respondent appointed an enquiry officer for conducting the disciplinary enquiry against the petitioner who informed the petitioner by a letter dated, 20th November, 2009 to appear before him on 11th November, 2009. The petitioner was also required to indicate the name of the Defence Assistant in term of Rule 14(8)(a) of the CCS (CCA) Rules. The original record shows that the petitioner had endorsed on the letter dated 10th November, 2009 that he did not wish to engage the services of the Defence Assistant.

4. During the enquiry proceedings, the petitioner set up a plea of not guilty whereupon the enquiry officer proceeded to record evidence. Six witnesses were examined in support of the two charges against the petitioner which included testimonies of Sh. Anil Kumar, Deputy Commandant (Motor Transport Officer) as PW 1 and of SI (MT) Umashankar Yadav as PW 4. The petitioner was duly given opportunity to cross-examine the witnesses which he declined.

5. After a detailed consideration of the evidence, the enquiry officer submitted a report dated 11th September, 2009 to the Disciplinary Authority finding the petitioner guilty of both charges. The Disciplinary Authority considered the report at length and the enquiry report was duly accepted by the disciplinary authority by an order passed on 9th February, 2010.

6. After consideration of the fact that the petitioner had already put in 19 years of service and his family circumstances, the disciplinary authority imposed the punishment of compulsory retirement from service with effect from 9th February, 2010 and further Disciplinary Authority directed that the petitioner would be entitled to pension and gratuity under Rule 14 of the CCS Pension Rules. Having given our considered thought to the facts and circumstances leading to passing of the impugned order dated 9th February, 2010, we are of the view that the petitioner has failed to make out legally any sustainable grounds to maintain the challenge to the order dated 9th of February, 2010 before us. We find no merits in the petition which is hereby dismissed.