

(2021) 08 DEL CK 0105

In the Delhi High Court

Case No : Civil Writ Petition No. 8540 Of 2021

NK M. B. Bhanu Prakash

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 17-08-2021

Acts Referred:

Army Act, 1950 — Section 39A, 48

Citation : (2021) 08 DEL CK 0105

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Prashant Vaxish, Risabh Sharma, Major Arjun Katoch

Final Decision : Dismissed

Judgement

Manmohan, J

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the order dated 11th February, 2021 passed by the Respondent No. 2. He further seeks directions to the Respondents to set aside the punishments awarded to the petitioner dated 18th February, 2016, 11th July 2017 and 4th April 2018 as well as to set aside the Red and Black inks awarded to the Petitioners and award seniority to the petitioner from actual date along with all arrears and damages.
3. Learned Counsel for the petitioner states that the petitioner had been enrolled in the Indian Army on 02nd February, 2012 as Store Keeper Ammunition Trade (SKT). The Petitioner was awarded with a rank of L/Nk on 01st January, 2015 vide Part II Order No.1/0118/2015.
4. Learned Counsel for the Petitioner contends that the Petitioner has been punished erroneously by way of the above punishment orders, without any

evidence against him, which has affected his promotion and seniority. He states that the Petitioner has been barred from availing his promotion for five years. He states that the Petitioner had filed a detailed Statutory Complaint before the Chief of Army Staff which had been dismissed vide Order dated 11th February, 2021, in violation of principles of natural justice inasmuch as the petitioner had not been given an opportunity to dispute the allegations levelled against him.

5. After extensive hearing, this Court is of the view that the Petitioner's behaviour has been 'consistent' inasmuch as he has been involved in repeated incidents (20th December, 2015, 18th February, 2016, 09th July, 2017 as well as 02nd March, 2018) in violation of Section 39(A) of the Army Act, which deals with 'absence without leave' and Section 48 of the Army Act, which deals with 'being intoxicated'.

6. It is settled law that the principles of natural justice are 'no unruly horse, no lurking and mine' as characteristically stated by Krishna Iyer, J. in

Chairman, Board of Mining Examination and Chief Inspector of Mines vs. Ramjee, (1977) 2 SCC 256. It is further settled law that principles of

natural justice cannot be fitted into right moulds. As rightly pointed out by the Chief of Army Staff in the impugned order the incidents dated 19th

December, 2015 and 11th July, 2017 are not disputed by the Petitioner and he had in fact pleaded guilty with regard to the same. Consequently, this

Court is of the view that the Petitioner cannot complain of violation of principles of natural justice, at least qua those two incidents.

7. In any event, this Court finds that there is nothing wrong with the decision making process and the Army Chief has applied his mind to each and

every incident in which the Petitioner had been found guilty. Since the discretion in the present case has been exercised in a reasonable and fair

manner by the senior most officer of the Armed Force, this Court is of the view that facts of the present case do not warrant any interference in the

writ jurisdiction.

8. Accordingly, the present writ petition along with pending application being bereft of merit is dismissed.

9. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.