

(2022) 01 DEL CK 0148

In the Delhi High Court

Case No : Civil Writ Petition No. 1138 Of 2022

Om Prakash Meena

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 19-01-2022

Acts Referred:

Citation : (2022) 01 DEL CK 0148

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

Bench : Division Bench

Advocate : Amit Chawla, Dev P.Bhardweaj, Anubha Bhardwaj

Final Decision : Dismissed

Judgement

Â Manmohan, J

C.M.No.3291/2022

Exemption allowed, subject to all just exceptions. Accordingly, the application stands disposed of.

W.P.(C) No.1138/2022

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the order dated 28th November, 2017 whereby the Petitioner has been removed from service, order dated 05th March, 2019 rejecting the appeal preferred by the Petitioner and the order dated 03rd June, 2021 rejecting the revision petition filed by the Petitioner.
3. Learned counsel for the petitioner states that the Petitioner was appointed as a constable in the CISF on 19th September, 2011 and deputed to CISF unit RTC, Barwaha in August 2012 after completion of training. He states that on

01st November, 2015 while working at CISF unit RTC Barwaha, the Petitioner met with an accident and his right elbow got fractured. He further states that the Petitioner underwent an operation at BHRC, Indore, however, it was unsuccessful and the Petitioner was referred for further treatment. He states that the Petitioner requested for a transfer from RTC Barwaha to RTC Behror or Deoli to enable him to proceed with the surgery he was required to undergo and also for the post medical assistance. Considering his medical condition, the petitioner was directed to join regular posting at CISF Unit DMRC.

4. Learned counsel for the Petitioner states that in light of expiry of the outliving permission on 9th November, 2016, the Petitioner preferred a representation dated 10th November, 2016 requesting for an extension of the permission as he still needed regular medical assistance. He further states that the Petitioner made several representations to the Respondents against his transfer orders requesting them to retain the Petitioner at Delhi so that he could continue his medical treatment.

5. Learned counsel for the Petitioner states that on 01st July, 2017 the respondents disposed of the appeal filed by the petitioner thereby directing the Petitioner to first comply with the transfer order and then prefer an appeal. He states that the Petitioner was already in depression and had been under medication for various other issues like insomnia, forgetfulness and suicidal tendencies and was also advised bed rest for a period of one month pursuant to his medical examination. He further states that a Charge Memo dated 13th July, 2017 was issued to the Petitioner and disciplinary proceedings were initiated against the Petitioner vide notice dated 18th August, 2017. He states that after the enquiry was conducted the impugned order dated 28th November, 2018 removing the Petitioner from service was issued.

6. Learned counsel for the Petitioner states that the punishment of removal from service is disproportionately harsh as compared to the charges leveled against him. He also states that due to his bad mental and physical condition, he was not able to submit his appeal against the order of removal in time and the same was rejected by the Respondents as being time-barred without going into the merits of the case.

7. A perusal of the paper book reveals that the Petitioner was dismissed on the

charge of refusing to accept transfer order dated 28th January, 2017

as well as being absent from duty and not reporting to the new unit as per transfer order and over staying leave.

8. In fact, the Petitioner had approached this Court in the year 2016 by filing a writ petition, being W.P.(C) No.12107/2016, challenging his transfer

order, which was dismissed by this Court vide order dated 22nd December, 2016 directing him to join his place of posting within a week from the date

of the order. However, the Petitioner did not rejoin his duty.

9. Keeping in view the dismissal of the earlier writ petition as well as the fact that the Petitioner did not join his duty, this Court is of the view that the

present writ petition is bereft of any merit. Accordingly, the same is dismissed.