
(2013) 09 DEL CK 0551
In the Delhi High Court
Case No : Writ Petition (C) 1781 of 2013

Shankar Kumar

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 05-09-2013

Acts Referred:

Citation : (2013) 9 AD 205

Hon'ble Judges : V. Kameswar Rao, J;Gita Mittal, J

Bench : Division Bench

Advocate : Prakash Kumar Singh, for the Appellant; Saahila Lamba, for Ms. Richa Kapoor, for the Respondent

Final Decision : Disposed Off

Judgement

Gita Mittal, J.—The writ petitioner assails the order dated 8th April, 2013 whereby the Revisional Authority has rejected the revision petition dated 1st April, 2013 filed by the petitioner on the ground that the same was belated. It appears that the petitioner was subjected to disciplinary proceedings which culminated in a final order dated 30th November, 2005 passed by the office of the Commandant, Central Industrial Security Force (Home Ministry) finding the petitioner guilty of charges for which the inquiry was held. The Disciplinary Authority imposed the punishment of reduction of pay of the petitioner by one stage from Rs. 3,350/- to Rs. 3,275/- for a period of one year and further ordered that during the period of reduction, the petitioner would not earn increments of pay and on expiry of the period the reduction would have the effect of postponing his future increments for pay.

2. The order of the Disciplinary Authority was subjected to a suo moto review by the Deputy Inspector General, Western Region Headquarter, Mumbai in exercise of powers vested under Rule 36 of the CISF Rule, 2001 resulting in issuance of notice to show cause to the petitioner proposing enhancement of the punishment. These proceedings culminated in the order dated 20th April, 2006 whereby the Reviewing Authority imposed the enhanced punishment of dismissal

from service upon the petitioner.

3. The petitioner had challenged the disciplinary proceedings as well as the orders passed against him by way of W.P. (C) No. 6801/2006 Constable Shankar Kumar v. Union of India before the High Court of Jharkhand at Ranchi. This writ petition was disposed of by an order recorded on 29th February, 2012 upon request of the petitioner for leave to withdraw the writ petition with liberty to file fresh case before the appropriate court.

We may note that while disposing off the writ petition as withdrawn, the liberty sought by the petitioner was granted to him.

4. The petitioner thereafter filed a revision petition dated 1st April, 2013 making a challenge to the disciplinary proceedings as well as orders of the Disciplinary Authority and Appellate Authority against him. This revision petition was disposed of by the impugned order dated 8th April, 2013 by the Revisional Authority on the sole finding that the petitioner had submitted the review petition belatedly and held that the same was so barred.

The petitioner has challenged the order dismissing his revision petition as well as disciplinary proceedings and aforementioned orders by way of the present writ petition.

5. It would appear that the petitioner had filed a writ petition before the High Court of Jharkhand as back as in 2006 which remained pending till the same was withdrawn by him on the 29th of February, 2012 with liberty as prayed. Though the order of the court records that the petitioner sought permission to file a fresh case before the appropriate court, it would appear that the petitioner was seeking to invoke the statutory remedy through revision in accordance with law. For this reason, he had filed the revision petition which came to be rejected as barred by time. Delay of five years would have occurred on account of the petitioner having invoked the extraordinary jurisdiction of the High Court of Jharkhand by way of the writ petition which remained pending for almost five years. The delay in invoking the statutory remedy is explained by the aforenoticed circumstances.

6. It is trite that the rules of procedure are handmaiden to the ends justice. The petitioner was dismissed from the rank of Constable and having been dismissed from service, may have been hard pressed for want of means, etc. to invoke appropriate remedy.

7. The delay in the given circumstances deserves to be condoned especially given the liberty granted by the High Court of Jharkhand.

8. In this background, we are of the view that interests of justice merit that the revision petition filed by the petitioner is considered and decided on merits.

In view of the above, we direct as follows:-

(i) The revision petition filed by the petitioner shall be considered on merits and

disposed by a speaking order of the Revisional Authority within a period of six weeks from today.

(ii) The order which is passed shall be communicated to the petitioner who shall be at liberty to assail the same by way of appropriate legal remedy.

(iii) we make it clear that we have not commented on the merits of the rival contentions in any manner hereby.

This writ petition is disposed of in the above terms.

Dasti to parties.