
(2016) 01 CAL CK 0071
In the Calcutta High Court
Case No : W.P. 24850 (W) of 2015.

Sushanata Ghosh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 05-01-2016

Acts Referred:

Central Industrial Security Force Act, 1968 — Section 8(i)

Citation : (2016) LIC 1965

Hon'ble Judges : Sanjib Banerjee, J.

Bench : Single Bench

Advocate : Ashim Kumar Dutta and Sudeshna Dey, Advocates, for the Appellant; Ranjan Roy, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Sanjib Banerjee, J. - The petitioner has been removed from service upon his wife having committed suicide at the official quarters allotted to the petitioner. The petitioner questions the very jurisdiction of the disciplinary proceedings on the ground that the charge-sheet issued to him would not fall within the parameters of Section 8(i) of the Central Industrial Security Force Act, 1968. The petitioner also cites his acquittal in the criminal proceedings to assert that the disciplinary authority, the appellate authority and the revisional authority erred in agreeing with and upholding the findings of the inquiry officer.

2. Though the assessment that is necessary in this extraordinary jurisdiction by the constitutional court is purely supervisory in nature and to ensure that all procedural safeguards were maintained and a reasonable opportunity was afforded to the delinquent to present his version, since the petitioner has been removed from service, the findings of the inquiry officer and the recording the oral evidence before the inquiry officer have been looked into.

3. The inquiry officer recorded that the petitioner's father had indicated that his son did not have a good marital life and was always suspicious of his wife. The

petitioner's father-in-law initially corroborated such position. It was the petitioner's father-in-law who lodged the complaint following which the petitioner was arrested and charges were brought against him, including under Sections 498A and 304B of the Indian Penal Code. The inquiry officer recorded the retraction of his original complaint by the father-in-law, but found enough material otherwise to render a finding that the petitioner was abusive of his wife and had tortured her.

4. The disciplinary authority endorsed the inquiry officer's findings and found that the petitioner's conduct was unbecoming of a member of the force and as such he was unfit to continue in service. The appellate authority and the revisional authority applied their minds to the grounds urged by the petitioner but found no merit therein.

5. It is not the petitioner's case that he was not afforded due opportunity to present his case before the inquiry officer or before the other authorities. The petitioner's statements have also been recorded by the inquiry officer and it does not appear clear as to why the petitioner's wife committed suicide as the petitioner does not have any positive stand on such aspect of the matter. Since the inquiry officer's findings are based on the oral evidence referred to in the report and the disciplinary authority endorsed the same by giving cogent reasons in support thereof, there does not appear to have been any procedural lapse on the part of the relevant authorities in course of the disciplinary proceedings.

6. The petitioner availed of the appellate and revisional remedies, but failed. The decision-making process culminating in the removal of the petitioner from service cannot be faulted on any ground.

7. As to the petitioner's assertion that the disciplinary proceedings were without jurisdiction, it appears from Section 8(i) of the said Act of 1968 that one of the grounds for the major punishments under such provision is on account of any person being "unfit for the same" in the sense that he is unfit to be an enrolled member of the force. The charge-sheet in this case did not refer to the petitioner's conduct making him unfit for continuing as a member of the force, but referred to "gross misdemeanour" and the petitioner's conduct otherwise being "unbecoming of a member of the force." The respondent authorities have regarded the expression "unfit for the same" in Section 8(i) of the said Act as synonymous with "unbecoming of a member of the force" on the basis of the service conditions generally applicable to Central Government employees.

8. Since the expression "unfit for the same" is not defined in the said Act of 1968, a reasonable meaning has to be given to it. It must also be remembered that the CISF is a disciplined force and an element of civility in the personal lives of the members of the force is also desirable. In the context of an allegation of abuse or torture on the wife by a member of the force, particularly given the gender prejudice that continues in this country, it was within the authority of the respondents to take cognizance of the circumstances leading to the unnatural

death of the petitioner's wife and to consider the petitioner's role therein to assess whether he was fit to continue in service of a disciplined force.

9. There does not appear to have been any error of jurisdiction in instituting the disciplinary proceedings against the petitioner upon the unnatural death of the petitioner's wife and the murmurs in the petitioner's family and the in-laws' about the petitioner's suspicion and behaviour towards his wife.

WP 24850(W) of 2015 is dismissed.

10. There will be no order as to costs.

11. Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.