

(2002) 04 AHC CK 0022

In the Allahabad High Court

Case No : Civil Miscellaneous Review Application No. 49979 in Civil
Miscellaneous Writ Petition No. 9949 of 2000

V.P. Singh

APPELLANT

Vs

Addl. D.I.G.P./Commandant CRPF

RESPONDENT

Date of Decision : 08-04-2002

Acts Referred:

Central Reserve Police Force Act, 1949 — Section 11
Central Reserve Police Force Rules, 1955 — Rule 27, 28, 28(3)

Citation : (2002) 3 UPLBEC 2263

Hon'ble Judges : Ashok Bhushan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ashok Bhushan, J.—Heard Counsel for the petitioner and Sri S.K. Ray appearing for the respondent.

2. This is a review application to review the judgment dated 7.3.2002 by which the writ petition was disposed of with liberty to the petitioner to file an appeal against the impugned removal order. The petitioner has filed this review application contending that under Rule 28 of the Central Reserve Police Force Rules no appeal lie hence the judgment of this Court dated 7.8.2002 be reviewed. Sri H.P. Misra, Counsel for the petitioner submitted that since the petitioner was under, training his case is covered by Rule 28(b) (3) of the Central Reserve Police Force Rules, 1955 which provides :

"28. (b) No appeal shall lie against an order by the competent authority inflicting any of the punishments mentioned in-- (1) serial Nos. 5 to 8 of the Table in rule.

(2) Clauses (a), (b) and (c) of Section 13.

(3) against an order discharging a recruit before the termination of his period of training."

3. Under Rule 28(a) every subordinate officer against whom an order under serial numbers 1 to 4 of the Table in Rule 27 or under Clauses (d) and (e) of Section 13 is passed, can file an appeal. The order against which the writ petition was filed is order of removal passed in exercise of power u/s 11 of the Central Reserve Police Force Act. The said order has been passed after disciplinary enquiry. The Counsel for the petitioner contended that since the petitioner stood under training the order is of discharge. Under Rule 28 (b) (3) of the Central Reserve Police Force Rules the appeal is not provided against an order of discharge, but in the present case no order of discharge has been passed. The order passed against the petitioner was order of removal as a measure of punishment after completing the disciplinary enquiry. The said order is of punishment covered under Rule of the Central Reserve Police Force Rules hence by virtue of Rule 28(a) of the said Rules the appeal lie. The order impugned in the writ petition, which has been filed as Annexure-1 to the writ petition, is not an order of discharge. The appeal lie against the order of removal dated 18.2.2000. No good ground has been made out for reviewing or modifying the order dated 7.3.2002.

4. In view of the fact that the petitioner has filed this review application and could not file an appeal, the petitioner is permitted to file appeal within further period of one month from today. With the aforesaid observation this review application is rejected.