* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

RSA No. 199 of 2007

Date of Decision : 29-08-2008

Kapur Singh ..... Appellant
Through: Ms.Madhu Moolchandani Advocate

versus

Central Industrial Security Force ..... Respondent

CORAM:
HON'BLE MISS JUSTICE REKHA SHARMA

1. Whether the reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the reporter or not? Yes
3. Whether the judgment should be reported in the 'Digest'? Yes

REKHA SHARMA, J.

The appellant Kapur Singh was working as Naik in Central Industrial Security Force. On August 10,1984 he was placed under suspension under Rule 29-A read with Schedule II of Central Industrial Security Force (CISF) Rules, 1969 on the allegation that he had committed theft of one Harrison lock, one back view mirror and one pair of white gloves from a car while on duty at the road accident site on August 8,1984. Consequent to his suspension departmental enquiry was conducted against him and vide order dated February 15,1985 he was inflicted the punishment of reversion to the lower post of Constable for a period of two years and was to be restored to the post of Naik only if found fit. The appellant preferred appeal against the order of punishment to the Deputy Inspector General, CISF but the

same was rejected vide order dated May 18,1985. Aggrieved by the order of reversion and rejection of his appeal the appellant filed a suit in the court of Civil Judge, Delhi seeking decree of declaration to the effect that the order of punishment dated February 15, 1985 be declared illegal, invalid and inoperative and a further declaration that he became entitled to be restored to the post of Naik soon after February 15,1987. The appellant also claimed the relief that the adverse remarks conveyed to him vide memorandum dated February 19, 1985, March 19,1987, May 9,1989 and June 21,1989 be declared illegal and invalid. The Learned Civil Judge dismissed the suit on the ground that in so far as the prayers seeking declaration with regard to the reversion and recording of remarks dated February 19, 1985 and March 19,1987 were concerned the same were barred by time. The Civil Judge also found no irregularity in the enquiry conducted against the appellant or any malafides on the part of the authorities in inflicting the punishment of reversion on the appellant or in the recording of the adverse remarks. The Judgment of the Civil Judge was challenged in appeal by the appellant before the Additional District Judge who concurred with the findings of the Civil Judge and accordingly vide order dated April 30,2007 dismissed the appeal. The present appeal has been preferred assailing the judgment of the Additional District Judge.

As noticed above, the relief sought by the appellant before the Civil Judge was that the order of reversion dated February 15,1985 which was upheld by the appellate authority on May 18,1985 was bad and inoperative. The appellant also sought relief that the adverse remarks conveyed to him vide memorandum dated February 19, 1985,

March 19,1987, May 9,1989 and June 21,1989 be declared illegal and invalid. It is not disputed that the period of limitation for filing a suit of declaration and injunction is three years from the date of accrual of the cause of action. The appellant had filed the suit on July 16,1990. There can be no doubt that reckoned from the date of order of reversion dated February 15,1985 and the order of the appellant authority confirming the said order on May 18,1985, the suit which was filed on July 16,1990 was clearly barred by time. The Civil Judge was thus justified in holding that the suit was barred by time vis-à-vis the above reliefs. The learned Additional District Judge rightly did not interfere with the findings of the Civil Judge. The learned Civil Judge had also dealt with the merits of the case and found no irregularity in the enquiry conducted against him. The learned Additional District Judge agreed with the finding of the Civil Judge. I find no reason to interfere with the concurrent findings of the courts below.

It is well settled that the Courts and Tribunals do not sit in appeal against the findings of the Inquiry Officer and cannot substitute their own views in place of the Disciplinary Authority. The Courts will not weigh the merits and demerits of rival versions. If on the evidence on record, the view taken is plausible then that would be the end of the matter as far as the challenge to the finding recorded by Inquiry Officer is concerned. Plausibility of the other view is no ground for judicial interference to upset the findings of the Inquiry Officer. The Apex Court in the case of Director General, RPF & Others Vs. Ch. Sai Babu reported in (2003) 4 SCC 331 has laid down the parameters within which the Courts can interfere in matters of departmental inquiry and has held as under:-

"Normally, the punishment imposed by a Disciplinary Authority should not be disturbed by the High Court or a Tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate after examining all the relevant facts including the nature of charges proved against the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of and discipline required to be maintained and the department /establishment in which the delinquent person concerned works"

Similarly in relation to the recording of adverse remarks, it has been held by the Apex Court in the case of Badrinath Vs. Government of Tamil Nadu & Ors. 2000 (6) Scale 618 that the Courts and Tribunals cannot sit as Appellate Authorities nor substitute their own views to the views of the Departmental Promotion Committees. Therefore, challenge by the appellant to the recording of adverse remarks also cannot be sustained. The learned Additional District Judge in the impugned judgment has held that the evidence led by the appellant before the learned Trial Court shows that the principles of natural justice were followed in conducting the enquiry by the Disciplinary Authority. The appellant was given sufficient opportunities. He filed appeals and revisions which were rejected. His case was considered by all the Departmental Promotion Committee after the period of two years from the said punishment order dated February 15,1985 but did not find him fit.

Having regard to the judgment of the Civil Judge and of the Additional District Judge giving detailed reasons for not accepting the suit and the appeal respectively, I find no ground to interfere in the

same. The appellant has failed to raise any question of law much less substantial question of law which may require consideration by this court.

The appeal is dismissed.

REKHA SHARMA, J.

AUGUST 29, 2008
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