

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

SWP No. 2668/2001

Date of decision: 07.07.2010

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Joginder Lal vs. Union of India and ors.

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Coram :-

**Mr. Justice J. P. Singh, Judge.**

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Appearing Counsel:

For Petitioner(s) : Mrs. Surinder Kour, Advocate.  
For Respondent(s) : Mrs. Pratibha Mahajan, CGSC.

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| i)  | Whether approved for reporting<br>in Press/Journal/Media | : <b>Yes/No</b> |
| ii) | Whether to be reported<br>in Digest/Journal              | : <b>Yes/No</b> |
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The petitioner was dismissed by Commandant 128 Bn, CRPF vide his Order No.D.II-32/98-Estt.II dated 22.04.1999, on the basis of the findings of the enquiry held against him, on the Charge that while functioning as LNK/GD of F/128 Bn, CRPF during August, 1998, he had committed an act of misconduct in his capacity as a member of the Force, by overstaying leave w.e.f. 04.08.1998 without any prior permission/intimation to the Competent Authority.

Appeal filed by him against his dismissal from service was rejected by the Deputy Inspector General of Police, CRPF, Jalandhar vide order dated November

17, 1999. He thereafter approached this Court questioning his dismissal and the orders passed by the Commandant and the Deputy Inspector General of Police, CRPF in this behalf.

His Writ Petition SWP No.2760/99 was disposed of on March 30, 2001 by the Court directing the respondents to treat his Writ Petition as a Petition of Revision under Section 29 of the Central Reserve Police Force Act, 1949 for passing appropriate orders thereon.

The Additional Director General, CRPF, NWZ, Chandigarh rejected the petitioner's Revision Petition, aggrieved whereby, he has again approached this Court questioning his dismissal and the orders passed by the Commandant, Appellate Authority and the Revisional Authority.

I have heard learned counsel for the parties and am of the view that this Writ Petition must succeed on a short point that the learned Additional Director General, CRPF, NWX, Chandigarh had erred in disposing of the petitioner's Revision Petition without deciding the issue as to whether or not the punishment awarded to him was disproportionate to the nature of the misconduct

committed by him, which he was required so to do, in terms of the directions issued on the petitioner's Writ Petition SWP No.2760/99.

Perusal of the Additional Director General, CRPF's order of September 11, 2001 on petitioner's Revision Petition, indicates that after appreciating the facts of the case and taking into consideration the failure of the petitioner to substantiate his plea projected to justify his absence from duty, the learned Director General upheld the orders passed by the Commandant and the Appellate Authority, ignoring the directions of the Court, whereby all that he was required to do while considering the petitioner's Revision was to determine as to whether or not the punishment awarded to the petitioner was disproportionate to the alleged lapse. This is so because this Court had found no case for interference, on merits of the petitioner's misconduct.

The petitioner's case, therefore, needs to be re-examined by the Revisional Authority i.e. the Additional Director General, CRPF, NWZ, Chandigarh, to deal with the issue in terms of the directions issued in petitioner's Writ Petition SWP No.2760/99.

Accordingly, setting aside Additional Director General, CRPF, NWZ, Chandigarh's order No.R.XIII.11/2001.ADM.III dated September 11, 2001, the petitioner's Revision before the Additional Director General, CRPF, NWZ, Chandigarh's is ordered to revive for its consideration afresh, in terms of the directions issued on petitioner's Writ Petition SWP No.2760/99.

This Writ Petition, therefore, succeeds and is, accordingly, allowed as indicated above.

**(J. P. Singh)**  
**Judge**

JAMMU:  
07.07.2010  
Vinod.