

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

% **Date of decision: 23<sup>rd</sup> October, 2020.**

+ **W.P.(C) 6409/2020**

**DHARAMPAL SINGH**

**..... Petitioner**

Through: Mr. K.K. Sharma, Adv.

versus

**UNION OF INDIA & ORS.**

**..... Respondents**

Through: Mr. Naginder Beniwal, Adv. with  
Mr. Birender Kumar Sharma, DIG  
CRPF.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**HON'BLE MS. JUSTICE ASHA MENON**

**[VIA VIDEO CONFERENCING]**

**RAJIV SAHAI ENDLAW, J.**

1. On 15<sup>th</sup> September, 2020 when this petition first came up before us, the following order was passed:

*“3. The petitioner, an Assistant Sub-Inspector (ASI) in the respondents Central Reserve Police Force (CRPF), has filed this petition pleading, (i) that he joined CRPF as a Constable (GD) on 2<sup>nd</sup> April, 1990 and in July, 2002 was promoted as Head Constable (GD); (ii) with effect from 1<sup>st</sup> April, 2011, the rank of ASI was introduced in the CRPF and in the list published on 2<sup>nd</sup> March, 2012 for promotion to the post of ASI (GD), the name of the petitioner was included; (iii) on 31<sup>st</sup> May, 2012, the petitioner was imposed a punishment of withholding of one increment without cumulative effect and resultantly the increment due on 1<sup>st</sup> July, 2012 was not given to the petitioner and the promotion of the petitioner to the rank of ASI was also cancelled till 30<sup>th</sup> May, 2013; (iv) the petitioner, though on 1<sup>st</sup> July, 2013 was given a double pay*

increment for the years 2012 and 2013 but the promotion due to the petitioner was not released even after 30<sup>th</sup> May, 2013; (v) on 26<sup>th</sup> November, 2013, the petitioner was informed that he will be considered for promotion after five years from the date of his punishment; (vi) that the rules for promotion to Sub-Inspector (SI)/ASI require completion of minimum of five years of service in the rank of Head Constable, completion of Weapons and Tactics Course, completion of a Senior Under Officers Cadre Course (SUOCC), no adverse report in the Annual Confidential Report (ACR) in the preceding five years and no major punishment in the preceding five years; (vii) the respondents CRPF, in the letter dated 26<sup>th</sup> November, 2013, when informed the petitioner that he will be considered for promotion after five years, assumed the punishment meted out to the petitioner to be a major punishment when as per the Rules, the punishment of withholding of increment for one year without cumulative effect is a minor punishment; (viii) though the petitioner, on 23<sup>rd</sup> September, 2019 has been promoted as ASI (GD), but not w.e.f. 30<sup>th</sup> May, 2013; and, (ix) that owing to the delayed promotions as ASI (GD), the petitioner has also been left behind in the matter of promotion to SI (GD), to which rank his batch-mates have been promoted.

4. The cause of action, if any, accrued to the petitioner, as per the averments in the petition, when the petitioner was not promoted after 30<sup>th</sup> May, 2013 i.e. more than seven years back and the petition is highly belated.

5. The counsel for the petitioner however states that the cause of action accrued on 23<sup>rd</sup> September, 2019 when the petitioner was promoted as ASI (GD).

6. We are however not able to comprehend. The grievance of the petitioner is not promotion as ASI (GD) but non-promotion as ASI (GD) on 30<sup>th</sup> May, 2013.

7. We have enquired from the counsel for the petitioner, that when the petitioner himself, at page 17 of the petition, has pleaded one of the eligibility conditions for promotion as 'no adverse remarks in the ACR for preceding five years',

*whether not the punishment meted out to the petitioner on 31<sup>st</sup> May, 2012, and which on enquiry is stated to be pertaining to indiscipline of the year 2012, resulted in adverse remarks in the ACR, and the petitioner became eligible for promotion only with effect from expiry of five years from the year 2013 and whether not the same makes the stand of the respondents CRPF, of finding the petitioner to be not entitled to promotion till the year 2018, correct.*

8. *The counsel for the petitioner then states that the ACR records may be called for.*

9. *Though the counsel for the respondents CRPF appears on advance notice but is unable to confirm whether the punishment, even if a minor one under the Rules, resulted in adverse remarks in the ACR.*

10. *It also requires consideration, whether the purpose of the Rule making the withholding of increment without cumulative effect a minor punishment is defeated, by treating it to be an adverse remark in the ACR, thereby denying promotion for five years.*

11. *It is deemed appropriate to request the presence of a senior officer of the respondents CRPF in the know of Rules/position in this regard so that some clarity can emerge and the need to mechanically call for counter affidavit/rejoinder, if possible, is avoided.*

12. *List for the said purposes on 21<sup>st</sup> October, 2020 and on which date the counsels are requested to come prepared to address on the said aspect.”*

2. On 21<sup>st</sup> October, 2020, after some hearing, the matter was adjourned to today.

3. The counsel for the respondents Central Reserve Police Force (CRPF) has e-mailed to us the Establishment Manual of the respondents CRPF of the year 1976 (corrected up to 11<sup>th</sup> May, 2012) and has drawn attention to Sub-Clause 6 of Clause 11.30 thereof to show that “Stoppage of

increment” is listed therein as a major punishment and on the basis thereof states that the petitioner is wrong in contending that the punishment of stoppage of increment for one year without cumulative effect meted out to the petitioner is a minor punishment. It is further contended that though earlier “stoppage of grade increment” was a minor punishment but vide Addendum dated 13<sup>th</sup> May, 2009 to the Establishment Manual, copy of which also has been e-mailed to us, “stoppage of increment” was constituted as a major punishment.

4. Per contra the counsel for the petitioner has drawn our attention to Annexure-B to the petition, being the communication dated 2<sup>nd</sup> March, 2012 of the Inspector General, CRPF to the Deputy Inspector of Police, Range CRPF, New Delhi/Gurgaon/G. Noida, to contend that the name of the petitioner is mentioned in the Approved List of Head Constables who had been promoted as Assistant Sub-Inspector (ASI) (GD). It is argued that once the name of the petitioner was included in the list of promotees, it is obvious that the punishment of “stoppage of increment” for one year without cumulative effect meted out to the petitioner was treated as a minor punishment and promotion was illegally denied, when due to the petitioner. Attention is also invited to Annexure-D to the petition, being the order dated 31<sup>st</sup> May, 2012 imposing the punishment aforesaid on the petitioner, to show that the same is “in light of” Section 11(1) of the Central Reserve Police Force Act, 1949 read with Rule 27 of Central Reserve Police Force Rules, 1955 and was meted out, “in order to keep lenient view”. It is contended that once a lenient view was being taken, the punishment could not have been a major one and necessarily had to be a minor one. It is further argued that the said order nowhere refers to the CRPF Establishment

Manual which is now being relied upon. It is contended that Section 11 of the CRPF Act is titled “Minor punishments” and once the order meting out punishment is “in light of” the said Section 11, the punishment meted out thereunder, even if classified in the CRPF Establishment Manual as a major punishment, cannot be treated as a major punishment. It is also contended that even the increment for one year which was withheld on account of punishment was released to the petitioner the following year when double increment was given to the petitioner. It is again reiterated that there is no adverse remark in the Annual Confidential Reports (ACRs) of the petitioner.

5. We have enquired from the counsel for the respondents CRPF, whether there is any adverse remark in the ACRs of the petitioner for the relevant year.

6. The counsel for the respondents CRPF, under instructions states that there is no adverse remark in the relevant ACRs of the petitioner.

7. The order meting out punishment being of 31<sup>st</sup> May, 2012, i.e. of after the communication dated 2<sup>nd</sup> March, 2012, attention to which also was invited by the counsel for the petitioner, we have enquired, when the disciplinary proceedings, culminating in the punishment dated 31<sup>st</sup> May, 2012, commenced against the petitioner.

8. The counsel for the petitioner states that the disciplinary proceedings commenced on 12<sup>th</sup> December, 2011 i.e. prior to 2<sup>nd</sup> March, 2012. He has further argued that in view of the order dated 31<sup>st</sup> May, 2012 meting out the punishment, specifying that a lenient view had been taken and having referred to Section 11 of the CRPF Act which is concerned with minor

punishments, the petitioner did not take any departmental remedies thereagainst and if had known that a major punishment had been meted out to him, would have taken departmental remedies against the major punishment meted out to him. It is also contended that the CRPF Establishment Manual, to the extent is contrary to the CRPF Act, cannot be given effect to.

9. We have considered the rival contentions.

10. We may at the outset state that our view, as expressed in the order dated 15<sup>th</sup> September, 2020 reproduced above, that the cause of action if any for this petition accrued to the petitioner when the petitioner was not promoted after 30<sup>th</sup> May, 2013 i.e. more than seven years prior to the institution of the petition and the petition is highly belated, remains unchanged and in our opinion the petition is liable to be dismissed on this short ground itself. In the said intervening seven years, several others must have been promoted as ASI and who, at the time of promotion of the petitioner on 23<sup>rd</sup> September, 2019, would be senior to the petitioner and whose seniority the petitioner wants to affect by seeking the relief of promotion w.e.f. 30<sup>th</sup> May, 2013 and without making them parties to this petition. Such belated claim, as an afterthought, cannot be entertained.

11. Be that as it may, to satisfy our judicial conscience, we have examined the merits of the contentions of the petitioner.

12. We will first deal with the communication dated 2<sup>nd</sup> March, 2012 on which reliance was placed by the counsel for the petitioner. The same bears the subject "Special Approved List AA/GD (Male) 06/2011: Release of HC/GD on promotion as ASI/GD". The same proceeds to convey (i) that in

pursuance of “CRPF, ASI (GD Cadre) (Non-Gazetted) (Male and Female) Group ‘C’ post RRs 2011 published on 20/11/2011”, the names of Head Constables (GD) held on panel of Special A/List B/GD-06/2011 enlisted thereunder had been removed from the said A/List vide letter dated 1<sup>st</sup> February, 2012 and had been brought on Special A/List AA/GD -06/2011 and assigned seniority maintaining their *inter se* seniority in A/List B/GD-06/2011; (ii) that the said personnel had further been released on promotion to the rank of ASI (GD); and, (iii) they were being sub allotted to the respective ranges for further posting to the field units. The name of the petitioner figures at serial no.51 in the list of Head Constables contained therein. The counsel for the petitioner while drawing attention to the said letter, fails to notice, that para 3 of the said letter clarifies “further, their promotion is subject to the conditions that they are free from vigilance angle and no departmental inquiry/prosecutions of criminal charges is pending against them and are not undergoing punishment or withholding of increment etc.”. Once the communication dated 2<sup>nd</sup> March, 2012, though undoubtedly including the name of the petitioner in the list those being promoted as ASIs (GD), was subject to the condition that no departmental inquiry was pending against the petitioner and the departmental inquiry commenced on 12<sup>th</sup> December, 2011 was admittedly pending against the petitioner on 2<sup>nd</sup> March, 2012, the petitioner cannot take any advantage whatsoever of the said communication dated 2<sup>nd</sup> March, 2012.

13. There is thus no merit in the said contention.

14. That brings us to the only other argument of the counsel for the petitioner i.e. of the punishment meted out to the petitioner being a minor

punishment because of the order meting out the punishment having been passed to take a lenient view and because of the power to mete out the punishment having been exercised in light of Section 11(1) of the CRPF Act bearing the title “Minor Punishments”. Section 11 of the CRPF Act is under the heading “Offences and Punishments” containing Sections 9 to 14 thereunder. Section 9 is titled “More heinous offences” and Section 10 is titled “Less heinous offences”, with each containing a list of acts so classified and with the offences in Section 9 being punishable with transportation for life for a term not less than seven years or with imprisonment for a term which may extend to 14 years or with fine which may extend to three months’ pay or with fine to that extent in addition to such sentence of transportation or imprisonment and those under Section 10 being punishable with imprisonment for a term which may extend to one year or with fine which may extend to three months’ pay or with both. Thereafter is placed Section 11, which is as under:-

***“11. Minor punishments - (1) The Commandant or any other authority or officer as may be prescribed, may, subject to any rules made under this Act, award in lieu of, or in addition to, suspension or dismissal any one or more of the following punishments to any member of the Force whom he considers to be guilty of disobedience, neglect of duty, or remissness in the discharge of any duty or of other misconduct in his capacity as a member of the Force, that is to say :-***

- (a) reduction in rank;*
- (b) fine of any amount not exceeding one month’s pay and allowances;*
- (c) confinement to quarters, lines or camp for a term not exceeding one month;*
- (d) confinement in the quarter-guard for not more*



*than twenty eight days, with or without punishment drill or extra guard, fatigue or other duty; and*

*(e) removal from any office of distinction or special emolument in the Force.*

*(2) Any punishment specified in clause (c ) or clause (b ) of sub-section (1) may be awarded by any gazetted officer when in command of any detachment of the Force away from headquarters, provided he is specially authorised in this behalf by the Commandant.*

*(3) The assistant commandant, a company officer or a subordinate officer, not being below the rank of subedar or inspector, commanding a separate detachment or an outpost, or in temporary command at the headquarters of the Force, may, without a formal trial, award to any member of the Force who is for the time being subject to his authority any one or more of the following punishments for the commission of any petty offence against discipline which is not otherwise provided for in this Act or which is not of a sufficiently serious nature to require prosecution before a Criminal Court, that is to say,-*

*(a) confinement for not more than seven days in the quarter-guard or such other place as may be considered suitable, with forfeiture of all pay and allowances during its continuance;*

*(b) punishment drill, or extra guard, fatigue or other duty, for not more than thirty days, with or without confinement to quarters, lines or camp.*

*(c) censure or severe censure: provided that this punishment may be awarded to a subordinate officer only by the Commandant.*

*(4) A jemadar or sub-inspector who is temporarily in command of a detachment or an outpost may, in like manner and for the commission of any like offence, award to any member of the Force for the time being subject to his authority any of the punishments specified in clause (b) of sub-section (3) for not more than fifteen days."*

The only other Sections under the same heading of “Offences and Punishments” are Section 12 titled “Place of imprisonment and liability to dismissal on imprisonment”, Section 13 titled “Deductions from pay and allowances” and Section 14 titled “Collective fines”. Though Section 11 is titled “Minor Punishments” but there is no provision under the heading “Offences and Punishment”, of “Major Punishments”. Reading of Section 11 aforesaid also shows “stoppage of increment” to be not included therein though imposition of fine of any amount not exceeding one month’s pay and allowance is included therein. However Rule 27 titled “Procedure for the Award of Punishments” under Chapter VI titled “Discipline” of the CRPF Rules, while prescribing the authorities competent/empowered to mete out different punishments, treats punishment of imposition of fine of any amount not exceeding one month’s pay and allowances and punishment of “stoppage of increment” as separate punishments and thus “stoppage of increment” cannot be said to be included in the punishment referred to in Section 11 of the CRPF Act, of fine of any amount not exceeding one month’s pay and allowances. We may at this junction also notice that there is no challenge in the petition either to the Rules or to the CRPF Establishment Manual.

15. Section 11 titled “Minor Punishments”, in the absence of any corresponding provision in the Act titled “Major Punishments”, cannot, in our view, be treated as a repository of classification of punishments into minor and major. Even otherwise, though the title of Section 11 is “Minor Punishments” but else in the body of the Section there is no reference to the punishments enlisted thereunder being minor or major. Once the words

‘minor punishment’ are not to be found in the content/body of Section 11, the Rule of interpretation of Statutes, that in the absence of any ambiguity the title of the Section cannot influence the interpretation of the substantive part of the Section, would apply and merely because Section 11 is titled “Minor Punishments” would not lead us to interpret the punishments listed thereunder to be intended to be treated as a minor punishments.

16. As far back as in *Bhinka Vs. Charan Singh* AIR 1959 SC 960, relying on Maxwell on Interpretation of Statutes it was held that the headings prefixed to sections or sets of sections in some modern statutes are regarded as preambles to those sections and cannot control the plain words of the statute but they may explain ambiguous words. The said view has been consistently followed in *Chandroji Rao Vs. Commisioner of Income Tax, Madhya Pradesh, Nagpur* (1970) 2 SCC 23, *H.M. Kamaluddin Ansari & Co. Vs. Union of India* (1983) 4 SCC 417, *Frick India Ltd. Vs. Union of India* (1990) 1 SCC 400, *Forage & CO. (of Lushala) Vs. Municipal Corpn. Of Greater Bombay* (1999) 8 SCC 577, *Raichurmatham Prabhakar Vs. Rawatmal Dugar* (2004) 4 SCC 766; *Prakash Nath Khanna Vs. Commissioner of Income Tax* (2004) 9 SCC 686, *Union of India Vs. National Federation of the Blind* (2013) 10 SCC 772, *Sarah Mathew Vs. Institute of Cardio Vascular Diseases* (2014) 2 SCC 62 and *Minnie Khadim Ali Kuhn Vs. Sate of NCT of Delhi* MANU/DE/2592/2012 (DB). Recently also in *Maqbool Vs. State of Uttar Pradesh* (2019) 11 SCC 395 it was held that title to the provision need not invariably indicate the contents of the provision; if the contents of the provision are otherwise clear and unambiguous, the title pales into irrelevance; on the contrary, if the contents of the provision are otherwise

ambiguous, an aid can be sought from the title so as to define the provision; in the event of conflict between the plain expressions in the provision and the indicated title, the title cannot control the contents of the provision.

17. Thus, merely because the order meting out the punishment refers to Section 11 and Section 11 is titled “Minor Punishments”, it does not lead to the conclusion that the punishment being meted out to the petitioner was a minor punishment or intended to be a minor punishment. Section 11 is concerned with the delegation of power to mete out the punishments and the reference thereto in the order meting out the punishment is in that context.

18. We may at this stage record that when we were quizzing the counsel for the petitioner on the said aspects, it was his contention that for an armed personnel, his rank is most important and reduction in rank listed under Section 11 is a much harsher punishment than “stoppage of increment” and thus, when reduction in rank under Section 11 has been treated as a minor punishment, the punishment of “stoppage of increment” can by no stretch of imagination be a major punishment.

19. The aforesaid argument rather than helping the petitioner strengthens our opinion that Section 11 of the CRPF Act is not concerned with the classification of punishments as minor and major. Section 11, as per its plain interpretation merely prescribes the punishments which may be awarded in lieu of or in addition to the punishment of suspension or dismissal. Moreover Section 11 itself is subject to any Rules made under the Act. Thus the reliance placed by the counsel for the petitioner on Section 11 of the Act, to contend that owing to reference thereto in the

order dated 31<sup>st</sup> May, 2012 meting out punishment to the petitioner, the punishment meted out to the petitioner is a minor punishment, is misconceived. Reference thereto, is in the context aforesaid and the reference to Rule 27 in conjunction therewith is because the same provides the officers empowered/authorised to mete out the punishment.

20. Supreme Court in *Union of India Vs. Ghulam Mohd. Bhat* (2005) 13 SCC 228 was concerned with the scope and ambit of Section 11 of the CRPF Act and Rule 27 of the CRPF Rules and held (a) that a bare perusal of Section 11 shows that it deals with minor punishment as compared to the major punishments prescribed in the preceding section; (b) Section 11 lays down that commandant or any other authority or officer, as may be prescribed, may, subject to any Rules made under the Act, award any one or more of the punishments to any member of the force who is found guilty of disobedience, neglect of duty or remissness in the discharge of his duty or of other misconduct in his capacity as a member of the force; (c) the interpretation of the High Court that the only punishments which can be awarded under this section are reduction in rank, fine, confinement to quarters and removal from the office of distinction or special emoluments in the force, is not correct because the section says that these punishments may be awarded in lieu of or in addition to suspension or dismissal; (d) the use of the words 'in lieu of, or in addition to, suspension or dismissal' before clauses (a) to (e) shows that the authorities mentioned therein are empowered to award punishment of dismissal or suspension to the member of the force who is found guilty and in addition to or in lieu thereof, the punishment mentioned in clauses (a) to (e) may also be awarded; and, (e) Section 11 deals with only those minor punishments which may be awarded

in a departmental inquiry and a plain reading thereof makes it clear that the punishment of dismissal can certainly be awarded thereunder even if the delinquent is not prosecuted for an offence under Section 9 or Section 10. Recently, in *Union of India Vs. Diler Singh* (2016) 13 SCC 71, the same view was reiterated.

21. This Court in *Ex Ct./Gd Dalip Singh Vs. UOI* 2016 SCC OnLine Del 1935 (Special Leave Petition (C) No. 8037/2017 preferred whereagainst was dismissed on 21<sup>st</sup> April, 2017) also, relying on *Ghulam Mohd. Bhat* supra negated the contention that because the charge sheet served on the delinquent in that case was under Section 11(1) of the CRPF Act i.e. for imposing a minor penalty, at the end of the inquiry, major punishment of removal from service could not be inflicted.

22. We have also scanned the CRPF Rules and the same are also not found to be classifying punishments into minor and major. The counsel for the petitioner also has been unable to point out any other Rule/Regulation/order classifying the punishments as minor or major, for the purposes of giving effect to the use of the words “major punishment” in the Rules for promotion to Sub-Inspector/ASI.

23. The preface to the CRPF Establishment Manual (as corrected up to 11<sup>th</sup> May, 2012) states that it was compiled and published in the year 1976 and revised in the year 2006, since when several changes in the organisational set up as well as in the provisions contained in the manual had taken place and owing where to need was felt to review the guidelines contained in the manual, to meet the present day requirements and to incorporate the changes made from time to time. Chapter XI thereof is titled

“Promotion”; Sub-Clause 5 of Clause 11.2 thereunder is titled “Drawal of Approved Lists” and provides that Approved Lists will normally be drawn in the month of January each year. Sub-Clause 6 of Clause 11.2 is titled “Review of Approved Lists” and provides that the List shall be subject to annual review and names of the persons who fail to keep up the required standard of efficiency or are found guilty of grave misconduct may be removed from the Approved Lists by the Competent Authority, though such removal will not be a permanent bar for the individual being reconsidered for the Approved List. This takes care of the argument of the counsel for the petitioner, of the name of the petitioner being found in the communication dated 2<sup>nd</sup> March, 2012 which is nothing more than an Approved List and which under the CRPF Establishment Manual does not confer any right to promotion on the petitioner.

24. Thereafter Sub-Clause 10 of Clause 11.2 under Chapter XI is titled “Promotion during suspension/pendency of Disciplinary/Court Proceedings” and *inter alia* provides:

- (i) the suitability of an official for promotion should be assessed at the relevant time;
- (ii) in the case of an official against whom Departmental Proceedings are pending, the fact should be brought to the notice of the Board of Officers detailed to conduct Approved List Tests or the Competent Authority;
- (iii) for the purpose of assessment for promotion however the Board of Officers/Competent Authority should not take into consideration the fact of the pending case against the official;

- (iv) if the official is found fit for promotion without taking into consideration the case pending against him, the grading awarded by the Board of Officers/Competent Authority is to be kept in a sealed cover, to be considered by the subsequent Board of Officers/Competent Authority;
  - (v) on the conclusion of the Disciplinary Proceedings the sealed cover may be opened and in case the official is completely exonerated, the earliest possible date of his promotion is to be determined with reference to the position assigned to him and the officer concerned may then be promoted;
  - (vi) however if any penalty is imposed on the officer as a result of the Disciplinary Proceedings, the findings in the sealed cover will not be acted upon and his case for promotion has to be considered in the usual course by the next Board of Officers/Competent Authority after the conclusion of the disciplinary proceedings.
25. Thereafter, Clause 11.6 of Chapter XI deals with “Approved List AA/GD for Promotion from Head Constable to ASI” and lays down the conditions of:
- (a) completion of five years of regular service in the grade with two years service as Head Constable (GD) in a Field Unit;
  - (b) must have qualified ASI Promotional Course;
  - (c) must be in Medical Category SHAPE-I;



- (d) must not have adverse report in Confidential Card in preceding five years and the last report in Confidential Card should not be Average;
- (e) must have not have Major Punishment in preceding five years; and,
- (f) must have good service record.

26. Thereafter Clause 11.30 relied upon by the counsel for the respondents CRPF is titled "Assessment of Service Records for Approved Lists – 'B' and 'C'" and Sub-Clause 5 whereunder provides that for promotion from Head Constable to Sub-Inspector the candidate should score minimum 30 out of 80 marks and Sub-Clause 6 is as under:-

*"Major and Minor Punishments are categorised as under:*

*(i) Major punishments:*

- a). Reduction to a lower time scale of pay, grade, post or service.*
- b). Reduction to a lower stage in the time scale of pay.*
- c). Fine of any amount not exceeding one months Pay and Allowances.*
- d). Confinement to Quarter Guard exceeding seven days*
- e). Stoppage of increment.*

*(ii) Minor Punishments:*

- a). Censure.*
- b). Confinement to Quarter Guard for not more than seven days.*
- c). Confinement to quarters, lines, camp, punishment drill, fatigue duties etc. for a term not exceeding one month."*

27. In the absence of the CRPF Act and the CRPF Rules classifying punishments/penalties meted out under Act into minor and major punishments, the CRPF Establishment Manual is the sole repository thereof and in the absence of any challenge thereto, the petitioner is bound thereby. As per the said Establishment Manual the punishment of stoppage of increment for one year without cumulative effect, meted out to the petitioner, is a major punishment for the purposes of eligibility of the petitioner for promotion, also prescribed in the same Establishment Manual. The petitioner cannot accept one part of the clause in the Manual and reject the other part.

28. We are thus otherwise also satisfied that no injustice has been done to the petitioner and there is no delay in the promotion of the petitioner from the post of Head Constable to Assistant Sub-Inspector.

29. Though in the light of the aforesaid the question, whether the purpose of meting out minor punishment is defeated by treating it to be an adverse remark in the ACR, thereby denying promotion for five years, does not arise but we may mention (a) that in ***Union of India Vs. K.V. Jankiraman*** (1991) 4 SCC 109 it was held that an employee has no right to promotion and has only a right to be considered for promotion; promotion depends upon several circumstances; to qualify for promotion, the least that is expected of an employee is to have an unblemished record; when an employee is held guilty and is penalised, he cannot be said to have been subjected to a further penalty for being denied promotion; (b) that in ***State T.N. Vs. Thiru K.S. Murugesan*** (1995) 3 SCC 273 it was further held that to hold that an employee, inspite of punishment is entitled to promotion else

it will amount to double jeopardy, would to a premium on misconduct and the doctrine of double jeopardy has no application in such matters and the same view was reiterated in *Collector of Thanjavur Distt. Vs. S. Rajagopalan* (2000) 9 SCC 145 and in *Ram Ashish Dixit Vs. Chairman, Purvanchal Gramin Bank Ltd.* (2013) 6 SCC 309.

30. No merit is found in the petition.

Dismissed.

**RAJIV SAHAI ENDLAW, J**

**ASHA MENON, J**

**OCTOBER 23, 2020**

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