

HIGH COURT OF DELHI**Bench: Justice V. Kameswar Rao and Justice Saurabh Banerjee****Date of Decision: 16 January 2024**

W.P.(C) 9814/2009

BRIJESH KUMAR SINGH **Petitioner****versus****UIO & ORS.** **Respondents****Legislation and Rules:**

Sections 20(b), 20(c), and Section 40 of the BSF Act, 1968

Subject:

The petition challenges orders dismissing the petitioner from service and sentencing him to imprisonment, based on charges under the BSF Act, 1968.

Headnotes:

Dismissal from Service – Disproportionality of Punishment – Petitioner challenging orders of Summary Security Force Court (SSFC) and Directorate General BSF – Alleged disproportionate dismissal from service for using threatening and insubordinate language towards superior officer and another constable, and conduct prejudicial to good order and discipline – High Court upholding the dismissal considering the seriousness of the charges. [Para 2-4, 6-8]

Disciplinary Proceedings in Armed Forces – Seriousness of Charges – Petitioner, a constable in BSF, found guilty of using threatening language towards a superior officer, insubordinate language, and conduct detrimental to force discipline – SSFC verdict and respondent's decision to mitigate imprisonment but retain dismissal upheld by the High Court – Emphasis on maintaining discipline in armed forces. [Para 5-6, 8]

Judicial Review – Scope in Disciplinary Cases – High Court's limited scope in reviewing disciplinary actions in armed forces – Refusal to interfere with SSFC's decision and Directorate General's order in petitioner's case due to the gravity of the offences and the importance of discipline in armed forces. [Para 7-8]

Decision – High Court dismisses the petition upholding SSFC's and Directorate General's orders – Dismissal from service maintained considering the nature of charges and the necessity of discipline in armed forces. [Para 8]

Referred Cases: None.

Representing Advocates:

Petitioner: Mr. S. N. Shukla, Adv. With Mr. Ashok Kumar Singh, Ms. Pragya Singh, and Mr. Akshay Singh, Advs.

Respondents: Mr. Jaswinder Singh, Adv.

J U D G M E N T

V. KAMESWAR RAO, J

1. This petition has been filed by the petitioner with the following prayers:

“(a) To issue appropriate writ in the form of certiorari to quash the order dated 27.10.2007 Passed by the SSFC (Summary Security Force Court) and the order dated 21.2.2008 Passed by the DG (Director General) BSF.

(b) To issue mandamus to the respondent authorities to take back the petitioner into the BSF (Border Security Force) with all consequential benefits and back wages.

(c) To pass any other further orders which this Hon'ble Court deems fits in the facts and circumstances of the case.”

2. In substance, the challenge of the petitioner is to an order dated October 27, 2007 passed by the Summary Security Force Court ('SSFC', for short) and the order dated February 21, 2008, passed by the Directorate General BSF / respondent No.2 ('Impugned Orders'). The order dated October 27, 2007, is an order whereby the SSFC has dismissed the petitioner from service as well as sentenced him to suffer rigorous imprisonment for six months in a civil prison. Whereas, the order dated February 21, 2008, is an order passed by the respondent No.2, as an authority considering the statutory petition filed by the petitioner against the punishment imposed by SSFC, whereby, the respondent No.2 has mitigated the remaining sentence of imprisonment of the petitioner but retained the punishment of dismissal from service and as such, rejected the statutory petition.

3. The only submission made by Mr. S.N. Shukla, the learned counsel appearing for the petitioner is that the penalty imposed for dismissal from service on the petitioner is disproportionate to the charges leveled against him as well as the finding arrived at by the SSFC and as such, the punishment needs to be reduced to a penalty, other than removal / dismissal from service.

4. We are not in agreement with this submission made by Mr. Shukla for the reason that the charges framed against the petitioner are very serious in nature, inasmuch as, *inter alia*, he has been charged with using threatening and subordinate language to his superior officer, and has also acted prejudicial to the good order and discipline of the force.

5. The conclusion of the SSFC, holding the petitioner guilty against the charges framed, is based on the conclusion reproduced as under:-

“VERDICT OF COURT

I am of the opinion on the evidence before me that accused No.981150547 Rank CONSTABLE Name BRIJESH KUMAR SINGH of A Coy, 77 Bn BSF, is guilty of all the charges as mentioned below.

FIRST CHARGE

BSF ACT 1968 U/S 20(b)

USING THREATENING LANGUAGE TO HIS SUPERIOR OFFICER

“GUILTY”

SECOND CHARGE

BSF ACT 1968 U/S 20 (c)

USING IN SUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

“GUILTY”

THIRD CHARGE

BSF ACT SEC-40

AN ACT PREJUDICIAL TO GOOD ORDER AND DISCIPLINE OF THE FORCE

“GUILTY”

6. Suffice to state, insofar as the first charge is concerned, the imputations are that the petitioner has used threatening language to his superior officer that *“he would shoot him”*. Similarly, the imputation qua second charge is that he has used insubordinate language to a constable of the same company and thrashed him on his face. So, as reiterated above, the charges which have been proved against the petitioner are very serious.

7. Even otherwise, as noted above, the penalty of dismissal which was also accompanied by the penalty of rigorous imprisonment for a period of six months in a civil prison, has already been mitigated by the respondent No.2 in the statutory petition filed by the petitioner.

8. If that be so, given the charges, and also, when the petitioner was employed in a disciplined force, this Court is of the view that the penalty of dismissal from service, should not be interfered with. Therefore, we find, there is no requirement to interfere with the Impugned Orders. The petition being without any merit, the same is dismissed. No costs.

*Disclaimer: Always compare with the original copy of judgment from the official website.