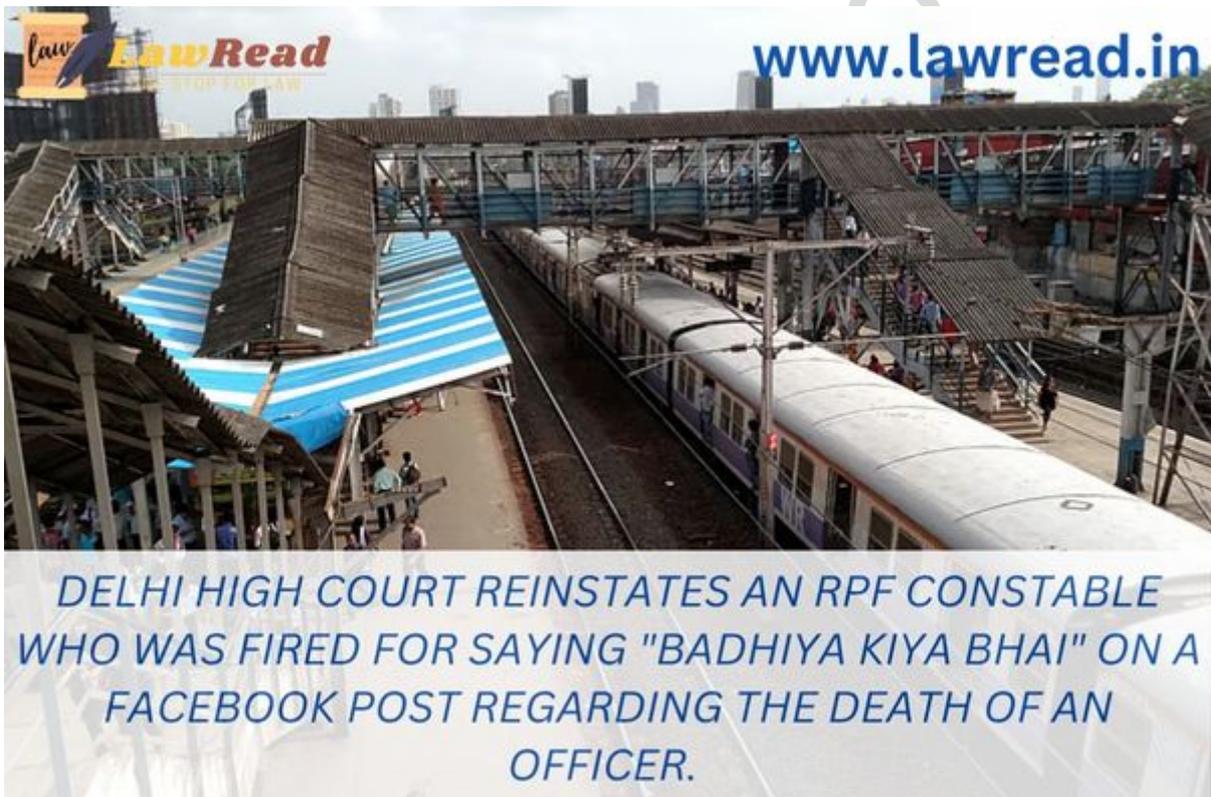


News

Delhi High Court reinstates an RPF constable who was fired for saying "Badhiya Kiya Bhai" on a Facebook post regarding the death of an officer.



The Court declared, "This is a clear case where there is a complete non-application of mind at every stage, from the stage of the Disciplinary Authority onwards."

The dismissal of a Railway Protection Force (RPF) constable for allegedly saying "**Badhiya kiya bhai**" ("Well done, brother!") on a 2018 Facebook post regarding the murder of a senior officer by another constable was recently overturned by the Delhi High Court [Robin Gautam

Vs Union Of India And Ors].

There was insufficient evidence, according to the Division Bench of Justices C Hari Shankar and Om Prakash Shukla, to conclude that the petitioner Robin Gautam had submitted the offensive comment. As a result, it decided that he had a right to be cleared of the accusations made against him in the charge sheet.

In actuality, the DA [Disciplinary Authority] maintains that this cannot be proven beyond a reasonable doubt. Therefore, beginning with the charge sheet, we quash and set aside the whole proceedings against the petitioner. The Court ruled, **"The petitioner shall be entitled to be reinstated in service from the date on which he was removed from service."**

The Court explained that Gautam would have faced harsh penalties if it had been shown that his Facebook account was the source of the offensive post.

"Commending the killing of one officer of the Force by another, even by way of a response on a social media platform, is inexcusable," it said.

Constable Arjun Deshwal is accused of killing RPF Assistant Commandant Mukesh C. Tyagi in 2018 while on election duty in Meghalaya.

The petitioner Gautam received a chargesheet for his purported Facebook statement following the murder.

He then **"appeared to be guilty,"** according to an Inquiry Officer (IO). The Disciplinary Authority (DA) took note of Gautam's defense that he had no Facebook account, despite the fact that it contained his name and photo, based on the inquiry report.

According to the DA, he ought to have reported the purported Facebook account to the department or the police. The DA ruled that his **"Next Annual Increment for a period of 05 years with cumulative effect"** be stopped since he had failed to do so.

But in 2021, the Chief Security Commissioner (CSC), who was also the Deputy Inspector General (DIG), decided that the sentence was too lenient and ordered the petitioner's firing. The appellate authority upheld the ruling.

Gautam then appealed his dismissal to the High Court.

Taking into account the evidence, the Court declared that the authorities had demonstrated a total lack of consideration throughout the entire decision-making process.

"There has been a blatant lack of application of mind throughout this matter, starting with the Disciplinary Authority stage. We are forced to note that officers are required to show some degree of application of mind when interacting with the careers of other police.

The Court observed that although Gautam claimed to have reviewed the data, the DIG had not even done so before sending him the show cause notice.

"The orders of the CSC and of the Appellate Authority in particular, merely reproduce, verbatim, the allegations in the show cause notice and it is apparent from a bare reading of the orders that neither of the officers has taken the trouble of going through the records or appraising himself of the actual position which emerged therefrom," it determined.

The Court ruled that since the IO and the DA agreed that there was no evidence to prove that Gautam owned the Facebook account, the case should have terminated there because the charge sheet contained no further accusations against him.

As a result, the Court granted the plea and mandated that Gautam be entitled to both continuity of service and fixation "as though he had never been removed from service in the first place."

The petitioner was represented by attorneys Saahila Lamba and Nidhi Sharma.

The State was represented by Senior Panel Counsel Krishna Kumar Sharma and attorney Anil Devlal.