
(2012) 11 DEL CK 0303
In the Delhi High Court
Case No : Writ Petition (C) 5763 of 2000

Brijpal Singh

APPELLANT

Vs

UOI and Others

RESPONDENT

Date of Decision : 20-11-2012

Acts Referred:

Citation : (2012) 11 DEL CK 0303

Hon'ble Judges : Pradeep Nandrajog, J; Manmohan Singh, J

Bench : Division Bench

Advocate : H.S. Dahiya, for the Appellant; Barkha Babbar, for the Respondent

Final Decision : Dismissed

Judgement

Pradeep Nandrajog, J.—The writ petitioner was issued a charge memorandum on April 29, 1996 listing two charges against him. The first charge was of using insulting, uncivilized and threatening language against SI/Ex. Poonam Dutta on being detailed for second shift night duty on April 18/19, 1996. Second article of charge, which in fact is not a charge, was that thrice in the past the petitioner had been punished for indiscipline. It is apparent that it was charge No. 1 which had to be looked into for adjudication of facts. As regards charge No. 2, service record would have sufficed, and in respect thereof we note that as per the testimony of PW-11, SI Ramakant Ghandiyal, the service book of the petitioner evidenced he having been censured three times in the past; once for overstaying leave and twice for misbehaving with senior officers.

2. As per the statement of imputation, the offending words which were classified as insulting, uncivilized and threatening spoken by the petitioner were : "You people do not know how to assign duties. Assign me the work and I shall teach you how it has to be performed. I cannot perform long duties. You may do what you want. Your dictatorial attitude would not be accepted".

3. We highlight that in the reply filed to the charge memo the petitioner admitted an exchange of words with the superior officers i.e. SI/Ex. Poonam Dutta but

highlighted that whereas he was consistently assigned duties at the main gate which were arduous and additionally were being repeatedly assigned to him as night duties and that too without adequate breaks; others were being treated softly. It is in this context that the petitioner explained his intent that he used the word "thekedari nahi chalegi", meaning thereby dictatorial attitude would not be accepted, as not being unparliamentary.

4. The record of inquiry produce would show that all witnesses have deposed of the petitioner protesting when at the roll call next shift duties were informed and some of them have deposed having heard the petitioner say as noted in para 3 above.

5. Learned counsel for the petitioner concedes that there is enough evidence that the petitioner did speak the words as extracted by us hereinabove from the statement of imputation, but would urge that the charge against the petitioner of using unparliamentary words is not established inasmuch as said words spoken by the petitioner are not unparliamentary words.

6. Now, the charge-sheet, which is in Hindi, does not use the expression "unparliamentary language". While referring, in paragraph 2 of the writ petition, to the first article of charge, the petitioner has used the word "unparliamentary" while translating Article-1 of the Charge.

7. The three words used in the charge, which we have highlighted hereinabove is in Hindi, are "apmaanjanak", "abhadra" and "chetavani", which three words mean "insulting", "uncivilized" and "threatening".

8. Be that as it may, even assuming that the word "abhadra" would mean unparliamentary, it would hardly matter for the reason the exact words spoken by the petitioner were extracted in the statement of imputation accompanying the charge.

9. The petitioner may be aggrieved by the manner in which duties were being assigned to different force personnel but the same could not be vented at a roll call and specially by using language which would amount to insubordination. We observe that in a nutshell, using the words "apmanjanak", "abhadra" and "chetavani" in the charge-sheet, it would be clear to the reader that the charge was of insubordination by speaking the words attributed to the petitioner.

10. We note that the disciplinary authority levied the penalty of dismissal from service which was correctly rectified by the appellate authority, being grossly disproportionate to the gravity of the offence, by reducing the same to reduction of pay by three stages for a period of three years; meaning thereby that after three years the petitioner regained the three stages of pay which were reduced since the reduction was not permanent and was not directed as postponing future increments.

11. Keeping in view that in the past there were two instances where the petitioner had acted with insubordination but was levied the penalty of censure,

would justify the instant penalty inasmuch as the soft penalties levied in the past did not have the desired effect.

12. It is trite that one purpose of a penalty is to make the wrong doers realize that in future he should not indulge in similar conduct. We do not find the penalty levied to be warranting any judicial interference and thus we dismiss the writ petition without any order as to costs.