
(2009) 05 AHC CK 0545
In the Allahabad High Court

Darshan Singh

APPELLANT

Vs

Commanding Officer, Trg.Bn., The Sikh Light Infantry
Regimental Centre, Fatehgarh & Ors.

RESPONDENT

Date of Decision : 18-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0545

Hon'ble Judges : Dilip Gupta, J

Final Decision : Dismissed

Judgement

Dilip Gupta, J.

The petitioner who had been promoted to the post of Havaldar in the Indian Army was, at the relevant time posted as Platoon Havaldar in the Training Battalion, The Sikh Light Infantry Regimental Centre, Fatehgarh, Uttar Pradesh. He was charged under Section 47 of the Army Act for using criminal force to a person subject to the Army Act being his subordinate in rank and ultimately reduced to the rank of Sepoy by the Summary Court Martial on 16th September, 2000. The petitioner challenged the Summary Court Martial proceedings and the order dated 16th September, 2000 under Section 164(2) of the Army Act. This petition was rejected by the order dated 11th October, 2004. The petitioner was also discharged from service under Army Rule 13 on 1st February, 2003.

The petitioner has sought the quashing of the Summary Court Martial order dated 16th September, 2000, the order dated 11th October, 2004 as also the order dated 1st February, 2003.

The petitioner was charged under Section 47 of the Army Act for using criminal force to a person subject to the Army Act. The charge was that on 29th July, 2000 at 6.00 Hours while in the Unit Line, as Platoon Havaldar, he struck the recruit Hardeep Singh of his platoon on both the thighs with a wooden stick. The petitioner pleaded guilty to the charge. The Summary Court Martial ordered that he be reduced to the rank of Sepoy.

Learned counsel for the petitioner submitted that the recruit Hardeep Singh was wearing wet clothes and, therefore, in order to maintain discipline in the training period, he hit recruit Hardeep Singh with a stick. He further submitted that the petitioner was forced to accept the charge levelled against him since he was given assurance that he will not be punished.

The contention of the learned counsel for the petitioner cannot be accepted. The submissions advanced by the learned counsel for the petitioner were also advanced in the petition filed by him under Section 164(2) of the Army Act. It was found that the petitioner had been tried by Summary Court Martial by Colonel R.S. Rana, VSM in the presence of two other persons and no pressure had been exerted upon him to accept the guilt. It was also found that the petitioner had been afforded all reasonable opportunities to defend himself during the trial but he pleaded guilty. It was also found that the findings of the Summary Court Martial are supported by cogent and reliable evidence on record which inspires confidence and the sentence awarded was just and legal. Learned counsel for the petitioner has not been able to substantiate that the findings recorded in the impugned orders are perverse.

The petitioner did not have the authority to physically assault a recruit even if it be assumed that he was wearing wet clothes. His contention that he hit the recruit on both the legs with a stick in order to maintain discipline cannot, therefore, be accepted. The petitioner had accepted his guilt in the Summary Court Martial and he cannot wriggle out the same by contending that he was pressurised.

Though the petitioner has also sought the quashing of the order dated 11th February, 2003 but there is no serious challenge to this order either in the petition or at the time of hearing of the petition.

There is, therefore, no merit in this petition. It is, accordingly, dismissed.