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**(2011) 09 DEL CK 0571**

**In the Delhi High Court**

**Case No : Writ Petition (C) No. 3246 of 1998**

Ex. Const. Heera Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision : 06-09-2011**

**Acts Referred:**

Central Reserve Police Force Act, 1949 — Section 11, 11(1), 11(1)  
Central Reserve Police Force Rules, 1955 — Rule 27

**Citation : (2011) 09 DEL CK 0571**

**Hon'ble Judges :** Sunil Gaur, J; Pradeep Nandrajog, J

**Bench :** Division Bench

**Advocate :** N.K. Kantawala, for the Appellant; Manmeet Singh, for Jaslin Kaur, for UOI, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

Sunil Gaur, J.—On 1.4.1990, Petitioner was enrolled as a Constable with CRPF. On 25.3.1997 he was proceeded against departmentally for the misconduct of travelling on government duty by ship from Madras to Port Blair without Ticket on 30.5.1995 and of claiming Rs. 277 only as ship fare charges for the sea journey from Madras to Port Blair through TA/DA claim for the month of June 1995, by obtaining ship fare ticket from a civilian. The departmental proceedings against the Petitioner resulted in infliction of penalty of dismissal from service upon the Petitioner w.e.f. 1.8.1997.

2. Statutory departmental appeal was preferred against the order of 28.2.1997 of the Disciplinary Authority, i.e., Commanding Officer of 54 Bn of CRPF, which was dismissed vide order of 2.7.1997 and the revision against the said order was also dismissed by the Revisional Authority by order of 16.1.1998.

3. On 14.12.1995, the facts which came to light through a letter purportedly sent by Ct.Naresh Kumar and received in the office of the Commandant of 54 Bn CRPF were that the Petitioner working as Coy. Clerk in C-54 Bn of CRPF had travelled on a ticket purchased on 25.6.1995 in the name of Ct.Ravinder Nath, whereas he

was not having ticket in his own name and on reaching Port Blair from Madras on 29.6.1995, Petitioner had returned the ship ticket to Ct.Ravinder Nath. Since the Petitioner had refused to pay the ship ticket fare to Ct.Ravinder Nath, he reported this matter to the Coy. Commander ,who had directed Ct.Ravinder Nath to claim the ticket amount with TA/DA bill and had asked the Petitioner not to claim the amount of the ship ticket and the Petitioner had disembarked from the ship and had obtained ship ticket from a civilian and submitted his TA/DA claim for the month of June, 1995 and after giving a bottle of wine as bribe to Inspector Lanka Birwa had got the said ship ticket verified.

4. An investigation was carried out to verify the contents of the aforesaid letter which was found to be anonymous, but finding substance in it, Petitioner was charge-sheeted for having travelled without ticket on 30.5.1995 and the Memorandum of Articles of Charge were supplied to the Petitioner, who before the Inquiry Officer admitted his act of misconduct to the extent that he had struck off the name of another person from the ship ticket and written his own name because this practice was also made by other who made claims in general.

5. The three Charges on which the Petitioner was departmentally proceeded against are as under:

#### ARTICLE-I

That No. 901191602 Ct.Heera Singh of C/54 Bn., CRPF while functioning as Ct./GD during the period of May, 95, committed an act of misconduct in his capacity as a member of the Force u/s 11(1) of CRPF Act, 1994 in that he travelled on Govt. Duty by ship from Ex.Madras to Port Blair without ticket on 30.5.95.

#### ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid office and while working as Coy Writer of C/54 Bn. the said No. 901191602 Ct.Heera Singh was guilty of misconduct in his capacity as a member of the Force u/s 11(1) of CRPF Act, 1949 in that he got verified/attested the ship fare ticket No. 0033671 which was issued in the name of a civilian by shipping Corporation of India, in his favour by concealing the actual facts.

#### ARTICLE-III

That during the aforesaid period and while functioning in the aforesaid office, the said No. 901191602 Ct.Heera Singh was guilty of mis-conduct in his capacity as a member of the Force u/s 11(1) of CRPF Act, 1949 in that he fraudulently claimed Rs. 277/-only as a ship fare charges for the sea journey from Ex-Madras to Port Blair through TA/DA claim for the month of June, 95 by obtaining a ticket bearing No. 0033671 which was issued in the name of civilian by the Shipping Corporation of India."

6. The Inquiry Officer considered it essential to record the evidence of relevant witnesses i.e. HC M.A.Pasupati, HC Sedu Ram Ram, Ct.Ravinder Nath, Ct.Sunehri

Lal and Insp.R.N.Mishra.

7. The evidence relating to this incident is of Ct.Ravinder Nath, HC Sedu Ram and Ct.Sunehri Lal. The actual factual version as disclosed by these witnesses is that the ship ticket was purchased in the name of the Petitioner as well as in the name of Ct.Ravinder Nath but due to some urgency Ct.Sunehri Lal was permitted by HC Chandan Singh to travel on the ship ticket of the Petitioner and in lieu thereof, Petitioner had received the ship ticket fare of Rs. 300/-from Ct.Sunehri Lal. Petitioner has made the journey without any ticket. Completing the journey, Petitioner took a ticket from a civilian passenger and interpolated his name thereon to claim reimbursement.

8. The stand of the Petitioner as reflected in the reply to show cause notice dated 5.2.1996 is as under:

"Before boarding the ship if I was aware of the fact that I am boarding without ticket then I would have asked the ticket from party Commandant. At the end when I did not receive my ship ticket, out of compulsion I took a ship ticket from one civilian and claimed TA/DA because if ship ticket had not been attached with my TA/DA claim, bill would not have been passed with the objection as to how I performed journey from Madras to Port Blair.

Sir, I tender my apology for this blunder/mistake because due to my this wrong act a loss of Rs. 277/-is caused to Indian Shipping Corporation and also without paying the amount from own pocket, I got an amount of Rs. 277/-reimbursed from the Government of India apart from wastage of time of senior officers in inquiring into the matter. I being the member of force have acted in a manner of indiscipline. First of all I apologize for my mistake I assure you that I will not repeat such type of mistakes in future which affect the image of my force. I also request that the said amount may be recovered from me.

Therefore it is requested that I may be pardoned for this mistake and I may be awarded an opportunity to improve myself and may not commit this type of mistake in future. I shall ever remain thankful for this act of kindness."

9. Considering the deposition of the witnesses recorded at the inquiry and the aforesaid stand as taken by the Petitioner, the Inquiry Officer held that the charges against the Petitioner W.P.(C) No. 3246/1999 Page 5 of 10 stood proved. The Disciplinary Authority relied upon the report of the Inquiry Officer and had imposed the penalty of dismissal from service upon the Petitioner while observing as under:

"The offences committed by No. 901191602 Ct.Heera Singh are serious and wilful, he being the Coy. Writer ,C/54 Bn which calls for a severe disciplinary action. Considering all the pros and cons of the case, I have come to a definite conclusion that the delinquent deserves No. leniency for the offences committed by him wilfully and with utter disregard to his duty in which he also misused his authority of a Coy. Writer. He is not fit to be retained in service."

10. In appeal, the penalty imposed upon the Petitioner was assailed on the ground that in the absence of the complainant initiation of the inquiry itself was bad and the allegation of forgery to claim Rs. 277/- is completely unfounded as the Petitioner would have never sacrificed his entire spotless career just to claim meagre amount of Rs. 277/- and to wriggle out of the admission of guilt, the plea taken by the Petitioner was he was threatened to sign the confessional statement of admission of his guilt. The last plea urged was that the departmental inquiry was conducted u/s 11(1) of CRPF Act, 1949, which deals with minor penalties but the penalty imposed is major one and is not commensurate with the gravity of the offence.

11. The aforesaid pleas of the Petitioner were repelled by the Appellate Authority vide Order dated 2.7.1997 by holding that the charges against the Petitioner stood proved from the evidence on record and had the Petitioner been coerced to admit his guilt, then he ought to have made grievance of it to the Inquiry Officer and it was within the power of Disciplinary Authority to have imposed the major penalty by invoking Rule 27 of CRPF Rules, 1955 and the punishment awarded is commensurate with the gravity of the offence committed by the Petitioner. The Revisional Authority also found No. reason to interfere and to revoke or modify the penalty imposed upon the Petitioner.

12. Though in the writ petition impugned penalty of dismissal from service is challenged by the Petitioner on various grounds pertaining to the merits, apart from asserting that the plea of guilt to the charges by the Petitioner was under duress but at the hearing learned Counsel for the Petitioner had confined his submission on the question of proportionality of the penalty imposed and after hearing both sides, we find such a course was rightly adopted by learned Counsel for the Petitioner as No. foundation has been laid to allege that under "duress" the Petitioner had pleaded guilty to the charges framed. Moreover, apart from the plea of guilt of the Petitioner, the evidence on record clearly substantiate the charges framed against the Petitioner.

13. At the hearing, it was rightly not urged by Petitioner's counsel that disciplinary proceedings were initiated for minor penalty but major penalty has been imposed because such an averment has not been made in the writ petition nor there is any basis to do so. As per Section 11 of CRPF Act, 1949 subject to the Rules made under this Act, minor punishments apart from the punishment of dismissal from service can be awarded and the procedure for the award of punishments finds mention in Rule 27 of CRPF Rules, 1955, which provide for infliction of major penalty only after departmental inquiry. We are of the view that there is No. violation of Section 11 of the CRPF Act, 1949 or the Rule 27 of CRPF Rules, 1955, as the punishment of dismissal from service inflicted upon the Petitioner is after holding of the departmental inquiry.

14. On the question of proportionality of the punishment imposed, learned Counsel for the Petitioner has pointed out that the confidential reports of the Petitioner have been very good and it has been common practice that during

travel at the last moment some members of the force may have to go off the duties due to some reason and in case someone else took his place, instead of cancelling and purchasing new ticket, the ticket would be used at the destination and the said ticket would be properly shown to have been endorsed. Thus, the submission advanced is that the punishment imposed is disproportionate, unduly harsh and deserves to be modified in the facts and circumstances of this case.

15. To the contrary, it was urged by learned Counsel for the Respondent that the misconduct is not only of travelling without ticket but is of grave nature, i.e., of fraudulently obtaining the Ship ticket of a civilian and thereafter, removing the photograph of the said civilian from it and of erasing the name of the civilian on that ticket and of Petitioner putting his name thereon and of getting it authenticated by dubious means and of seeking reimbursement of the travelling allowance thereon. So, it is contended that the punishment imposed is commensurate with the offence committed by the Petitioner. It was pointed out that the decision of the Apex Court in *State Bank of India and Others Vs. Samarendra Kishore Endow and Another*, , relied upon by the Petitioner's counsel is in altogether different context as in the said decision there was No. interpolation of documents to claim allowances and No. loss was caused to the Bank on account of irregular release of loan and so the punishment of removal from service was found to be harsh and the Appellate Authority was directed to reconsider the punishment imposed.

16. In *Union of India (UOI) and Others Vs. Dwarka Prasad Tiwari*, , it was reiterated by the Apex Court that the scope of judicial review in the writ proceeding is limited to the deficiency in the decision making process and not the decision. The pertinent observations made in *Dwarka Prasad (Supra)* are as follows:

The common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in *Wednesbury (supra)* the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator.

17. In the instant case, there is No. scope for interference as we find that the impugned order does not suffer from outrageous defiance of logic nor the punishment is shockingly disproportionate. It is not that Petitioner made a false claim. He even fabricated, by way of making interpolation, a ticket in his name. Thus we find that on quantum of punishment, No. case is made out to reconsider the punishment imposed. Finding No. merits in this writ petition we dismiss it.

18. No costs.