

(2012) 08 AHC CK 0059

In the Allahabad High Court

Case No : Civil Miscellaneous W.P. No. 55340 of 2000

Jitendra Kumar Singh and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 31-08-2012

Acts Referred:

Central Reserve Police Force Act, 1949 — Section 11(1)

Citation : (2013) 1 ALJ 625 : (2013) 4 AWC 3580

Hon'ble Judges : Rajes Kumar, J

Bench : Single Bench

Advocate : Sharad Kumar, G.S. Srivastava and Hari Kant Shukla, for the Appellant; S.K. Srivastava and N.P. Shukla, S.S.C., for the Respondent

Final Decision : Dismissed

Judgement

Rajes Kumar, J.—The petitioners are the heirs of deceased employee, Jitendra Kumar Singh, who died on 18.11.2006. Late Sri. Jitendra Kumar Singh was a constable in C.R.P.F. posted at Nalkata District Dhalai (Tripura). He has been dismissed from service by the Commandant vide order dated 21.3.1997 against which an appeal was filed which has been decided by the Deputy Inspector General of Police C.R.P.F., Allahabad vide order dated 3.11.1997. The appeal has been dismissed. Challenging the appellate order of the dismissal the present writ petition was filed. No interim order has been granted.

2. Late Sri. Jitendra Kumar Singh died on 18.11.2006. While he was posted at Tripura he has been given charge-sheet on three charges-- (i) While functioning as a Constable he committed an act of misconduct in his capacity as a member of the force u/s 11(1) of the C.R.P.F. Act, 1949 namely on 29.9.1996 while on active duty for civil convoy protection between Chakmaghat and Manu, when the convoy stopped at 19.30 hours at Jayanagar for taking water-tea etc., he left his personal weapon unattended in vehicle and went to shop. When questioned after returning he misbehaved with his section Commander No. 710461294 HC Daulat Ram at 19.45 hrs; (ii) While he detained for quarter guard duty (from

14.10.1996 at 05.00 hrs to 15.10.96 at 05.00 hours) at coy Headquarter Nalkata he did not turn up for his duty in time i.e. at 19.00 hrs (duty period from 19.00 to 21.00 hrs) and found to be roaming under the influence of liquor; (iii) On 14.10.1996 at 19.30 hrs while detained for quarter guard santry duty instead of taking over charge from Santry No. 913225238 CT Saligram Patil misbehaved with him under the influence of liquor, disobeyed the orders of OC Coy and threatened the OC. Sh. Pheru Ram AC to shoot.

3. Shri U.C. Yadav, Second Commandant of this unit was appointed as enquiry officer to enquire into the charges framed against the delinquent. After the completion of the departmental enquiry the enquiry officer has submitted the DE proceedings on 6.2.1997. Thereafter the punishing authority has provided the copy of the inquiry report and by letter No. P. VIII-25/96-92, EC-II dated 27.10.1996 given 15 days time to submit his representation, if any, as required under GOI Decisions No. 7 below Rule 15 of CCS (CCA) Rules, 1965. The delinquent personnel has submitted his written representation on 3.3.1997. After the careful consideration of the charges, statement of the witnesses and the reply of the delinquent personnel, the Commandant vide order dated 21.3.1997 dismissed the petitioner from services. Against the said order, an appeal filed by the delinquent personnel has also been dismissed. Both the authorities have held that the delinquent personnel has committed an act of misconduct in his capacity as a member of the force u/s 11(1) of the CRPF Act, not only once but thrice. The statements of the witnesses recorded at the time of the enquiry proved the misconduct. Despite the opportunity being given the delinquent personnel has not produced any witnesses in his favour nor preferred to cross-examine the witnesses.

4. Learned counsel for the petitioner submitted that having regard to the act committed by the delinquent the punishment by way of dismissal from services is disproportionate and is excessive.

5. I do not find substance in the argument of learned counsel for the petitioner.

6. The petitioner committed misconduct not only once but thrice. Not only he misbehaved with the senior officer, but he also did not report for the duty in time, rather he was found roaming under the influence of liquor. I am of the view that having regard to the nature of the misconduct committed by the delinquent the dismissal from service cannot be said to be disproportionate or unjustified. The discipline is the foundation of the police force. If the discipline is being compromised the police force cannot work and the entire system shall collapse. In view of the above discussion, I do not find any merit in the writ petition. The writ petition fails and is dismissed.