
(2016) 05 DEL CK 0083
In the Delhi High Court
Case No : W.P.(C) 4109 of 1993

Kumar Pal Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 18-05-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 5 ADDelhi 389 : (2016) 231 DLT 138

Hon'ble Judges : Hima Kohli and Sunil Gaur, JJ.

Bench : Division Bench

Advocate : Mr. Pawan Kumar Bahl, Advocate, for the Appellant; Dr. Ashwani Bhardwaj, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Hima Kohli, J.—The petitioner, who was recruited as Sepoy in the CRPF and at the relevant point in time, was on orderly duty at the residence of the wife of the Deputy Superintendent of Police at Delhi, had filed the present petition in the year 1993, seeking reinstatement in service.

2. The foundational facts of the case are as follows: -

(a) On 22nd June, 1979 at about 2130 hours, some of the members of the Force (about 1700 in number), held an illegal meeting in the CRPF Camp, Jharoda Kalan, New Delhi and took out an unauthorized procession. In the meeting, they decided to abstain from work and paralyse the normal functioning of the Group Centre by systematic disobedience of orders and non-performance of various lawful duties assigned to them. They also made unauthorized collection of funds from the Force personnel.

(b) On 23rd June, 1979, acts of insubordination and misconduct took place in the morning parade. The revolting members of the Force also abstained from discharging their normal duties despite definite orders directing them to report. Subsequently, they came in a mob, went to the main entrance of the Group

Centre raising abusive anti-government slogans. They locked the signal shift bus at the gate after members of the Force travelling in the said bus were forcibly pulled down and threatened them with dire consequences if they tried to move to their place of duty. The mob then rushed to the Signal Centre building, disrupted the system of communication and the staff working on the wireless sets were forced to join the mob and desert their lawful duties. The mob proceeded to the GC office and forced the ministerial staff as well as the superior officers to close the offices in the face of fatal intimidation. The mob then indulged in physical violence against loyal members of the Force and caused injuries to them.

(c) On the next day i.e. 24th June, 1979, the aforesaid members of the Force continued to abstain from their duties, became grossly insubordinate and insolent towards the superior officers and compelled the Commandant of the 1st Signal to come out of his residence after office hours and address the mob.

(d) During the period from 22nd June to 24th June, 1979, the mob kept the main gate of the Group Centre locked and did not allow any other member of the Force or superior officer to come in or go out in discharge of their duties.

(e) On 25th June, 1979, pursuant to the decision of the higher authorities, the Army Units accompanied by the First Class Magistrate, reached the Group Centre in the early hours. The Magistrate announced that the said mob of members of the Force were an unlawful assembly and they should disperse immediately and hand over their weapons and ammunition"s to the Army. However, the agitators refused to hand over their weapons or to disperse and instead, they adopted a violent posture of confrontation with the Army and fired upon them. In the said milieu, the Army resorted to use of force and forced the mob to surrender their arms and ammunition"s. In the process, three members of the Force were killed and eight others were injured.

3. In view of the aforesaid incident, a complaint under Sections 9 and 10 of the CRPF Act was registered against the agitators in the court of the Commandant, Group Centre-cum-Magistrate, New Delhi.

4. As for the petitioner in the present case, it is the stand of the respondents that he was an active participant in the rebellious group and was found to be absent from duty unauthorisedly and had indulged in various acts of indiscipline and misconduct. Taking a serious view of the matter and being satisfied that it was reasonably impracticable to hold a regular departmental enquiry in the matter, the Commandant invoked the powers vested in him under Rule 27(cc)(ii) of the CRPF Rules and passed the impugned order dated 01.08.1979, dismissing the petitioner from service. The reasons that had weighed with the Commandant for dispensing with an enquiry before passing the dismissal order were spelt out in the following manner :-

(i) It would be highly prejudicial to the general interest and discipline of the Force.

(ii) The aforesaid member of the Force individually and collectively would not cooperate or associate themselves with the enquiry proceedings and there is reasonable apprehension of their whereabouts not being ascertainable.

(iii) It is apprehended that the said members of the Force would create various difficulties and impediments to the holding of enquiry leading to situation jeopardising the life and security of loyal members of the Force in general and the Enquiry Officer and the witnesses in particular.

(iv) It would generate further unrest leading to uncontrollable situation.

(v) It would constitute an irritant and reminder of the unpleasant events to those who are on duty and also would retard the process or normalization in the disciplined Force.

5. Aggrieved by the order dated 01.08.1979, the petitioner had filed an appeal before the Deputy Inspector General of Police, CRPF, which was dismissed vide order dated 29.08.1979. This was followed by a revision petition filed by the petitioner before the Inspector General of Police, CRPF, which was dismissed vide order dated 19.11.1979 and the review petition filed before the Director General, CRPF was finally dismissed on 10.01.1980. The present petition came to be filed by the petitioner after almost 13 years from the date of the dismissal of his review petition, i.e., in the year 1993. The petition was dismissed in default on 04.1.2011 and restored subsequently.

6. Mr. Pawan K. Bahl, learned counsel for the petitioner had argued that the respondents had committed a gross illegality by dispensing with the procedure of holding a regular departmental enquiry in the present case. Secondly, he had urged that the respondents had discriminated against the petitioner for the reason that pursuant to the recommendations made by the Ministry of Home Affairs for reinstatement of the members of the Force, who had participated in the rebellion, many persons who were similarly situated as the petitioner herein, were reinstated but he was not granted any relief.

7. Coming to the first plea raised by learned counsel for the petitioner that a departmental enquiry could not have been dispensed with, the same stands answered by the observations made by the Disciplinary Authority while passing the dismissal order dated 01.8.1979, the relevant extract whereof has been reproduced in para 4 above. The facts mentioned in the said order clearly reveal the grave circumstances wherein the Army had to be called into quell the agitation that had become widespread and violent, where threats of bodily harm and criminal intimidation was extended to the loyal members of the Force and their superior officers. Given the gravity of the situation, the Disciplinary Authority was justified in invoking the provisions of Rule 27 cc (ii) of the CRPF Rules, 1955, which contemplates the procedure for awarding of punishments and states that where the authority competent to impose the penalty is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an enquiry in the manner provided in these rules, the Inspector General or other

authority competent to impose the penalty of dismissal from service on all such members to the force, may make an order directing that disciplinary action against all of them may be taken by a common procedure.

8. As for the second plea taken on behalf of the petitioner that he had been discriminated against inasmuch as similarly situated members of the Force were reinstated whereas no such relief was granted to him, the records reveal that several representations were made by the petitioner and other similarly placed personnel to the then Members of the Parliament and the Government and with the intervention of the nodal Ministry, i.e., the Ministry of Home Affairs, the matter was reviewed and a decision was taken to take a lenient view in respect of those members of the Force, who had not actively participated in the agitation and whose roles were only limited to joining their colleagues in raising slogans. Out of the 1773 personnel whose services were terminated, 1524 were identified and orders were issued for reinstating them in service but the remaining including the petitioner herein, whose services were terminated, were not given the said benefit as their role in the agitation was found to be far more grave. In the case of the petitioner herein, it was specifically observed that he was an active participant in the agitation.

9. Reliance placed by learned counsel for the petitioner on the recommendations made by the Parliamentary Committee to take a lenient view in the case of the petitioner, would not be of much assistance for the reason that ultimately, it was the Competent Authority that was to act on the said recommendations and after taking up individual cases for consideration, orders of dismissal in respect of 1524 personnel were cancelled and they were reinstated in service for the reason that they had only participated in slogan shouting, but had not resorted to any violence, nor were they ring leaders of the mob, but the petitioner herein including 315 other personnel from Delhi, who were dismissed, did not feature in the said list for obvious reasons, which were that, they had actively participated in the agitation.

10. Even otherwise, the statement of Mrs. Madhu Thapa, wife of the Deputy Superintendent of Police, residing in GC Jharodakalan Campus, New Delhi, at whose residence the petitioner was posted for orderly duty, reveals that in the last week of June, 1979, he did not report for duty after the agitation had commenced and even when the agitation had ended, he failed to report for duty. The petitioner has miserably failed to offer any explanation to counter the aforesaid evidence recorded by the Ministry of Home Affairs and placed before the Parliamentary Committee along with his representation for seeking reinstatement in service.

11. We may conclude by noting that the petitioner is not the only one who had approached the Court for seeking reinstatement. There were several other members of the Force, who had approached the Court but their petitions were dismissed. One such case was of Hanuman Singh, who had directly approached the Supreme Court by filing W.P.(C) 2457/1980, which was dismissed by a

Constitution Bench vide order dated 13.03.1980 with the following pertinent observations:-

"The petitioner was believed to be the king pin of that rebellion, but a part of the extent of the petitioner's participation in that rebellion, it is clear that the atmosphere generated by the gross breach of discipline on the part of petitioner and his collaborators had created a situation in which it would have been impossible to hold a formal inquiry into their conduct, we are satisfied that, in the circumstances, it was not reasonably practicable to hold inquiry against the petitioner before dismissing him from the force."

12. The aforesaid observations would squarely apply to the facts of the present case as well. It is also a matter of record that several other petitions filed on the same lines, were dismissed in view of the decision of the Supreme Court in the case of Hanuman Singh (supra).

13. Given the aforesaid facts and circumstances and the background in which the impugned order was passed and having perused the records produced before us, we are of the opinion that the respondents had applied their mind before passing the impugned order. There were sufficient reasons for dispensing with the enquiry when the rebellion was of such a large magnitude that the Army had to be requisitioned to contain the unruly mob that was extending threats, criminal intimidation and bodily harm to loyal members of the Force. The petitioner was undoubtedly an active member of the agitating mob and keeping in mind the scale of the agitation, the respondents were justified in invoking the provisions of Rule 27(cc)(ii) of the CRPF Rules, 1995 and adopting a common procedure by dispensing with the departmental inquiry and dismissing the petitioner and other delinquent members of the Force, out rightly.

14. Keeping aside the aspect of inordinate and unexplained delay on the part of the petitioner in approaching the Court for relief, even on merits the impugned order does not deserve any interference. Accordingly, the present petition is dismissed as being devoid of merits. No orders as to costs.