

(2013) 03 AP CK 0046
In the Andhra Pradesh High Court
Case No : Writ Petition No. 7231 of 2013

Mahender Singh

APPELLANT

Vs

Union of India, Commandant, Central Industrial Security
Force and The Assistant Commandant, CISF Unit

RESPONDENT

Date of Decision : 14-03-2013

Acts Referred:

Central Industrial Security Force Act, 1968 — Section 10, 15(1), 22, 3, 6
Criminal Procedure Code, 1973 (CrPC) — Section 161

Citation : (2013) 5 ALD 434 : (2013) 6 ALT 764

Hon'ble Judges : Nooty Ramamohana Rao, J

Bench : Single Bench

Advocate : J.M. Naidu, for the Appellant; A. Samir Kumar Reddy, CGSC and Sri Ponnamm Ashok Goud, ASG, for the Respondent

Final Decision : Dismissed

Judgement

Nooty Ramamohana Rao, J.—This Writ Petition is instituted by a Head Constable working with the Central Industrial Security Force (henceforth referred to as "CISF" for brevity), challenging the legality and validity of the order dated 31.05.2012 passed by the Assistant Commandant, CISF Unit, Manugur, imposing on him the punishment of withholding one increment for a period of one year with non-cumulative effect. The appeal preferred by the petitioner there against was rejected by the Commandant, by his order, dated 18.08.2012 and the further revision preferred there against has also been turned down by the Deputy Inspector General of CISF, Hyderabad, by his order dated 31.12.2012. At the relevant point of time, the petitioner was working as a Head Constable of the CISF unit attached to Heavy Water Plant, Manugur. On the intervening night of 24/25.12.2011, at about 00.30 hours, within the campus, one of the Sub-Inspectors of the Force, namely Sri P.N. Ramesh has been hit on his head by an unruly constable attached to the Force by name Sri Nitin Kumar. Immediately, the injured Sri Ramesh has been shifted to a hospital, but he succumbed to the head injury and died at about 03.45 hours. The writ petitioner was one of those

who made necessary information available about the incident to the Inspector of Police, Manugur on 25.12.2011. Subsequently, it has transpired that on 19.01.2012, when the writ petitioner has been examined by the Judicial Magistrate of I Class, Bhadrachalam, he seems to have resiled from the statement made by him earlier. This conduct of the writ petitioner has been viewed seriously by the Force and he has been subjected to disciplinary enquiry. The Assistant Commandant, by his order, dated 31.05.2012, imposed the punishment of stoppage of one increment without cumulative effect. When appealed against, the Commandant rejected the appeal and confirmed the said punishment and so did the revisional authority, namely the Deputy Inspector General of the Force. Hence, this Writ Petition.

2. Heard Sri J.M. Naidu, learned counsel for the petitioner as well as Sri Samir Kumar Reddy, learned Standing Counsel for Central Government for the respondents.

3. Sri J.M. Naidu, learned counsel for the petitioner would principally contend that the impugned order is in gross violation of the principles of natural justice and the procedure prescribed under the Central Industrial Security Force Rules. Further, he would contend that the petitioner has not changed his version at all and he has only deposed the actual truth before the Court concerned, but unfortunately, the local police has viewed the same as a change in his version and hence, the petitioner should not have been subjected to disciplinary proceedings. It was also urged by Sri J.M. Naidu that the petitioner was not on duty when the incident took place on the intervening night of 24/25.12.2011 and hence, the question of attributing any misconduct to him would not arise.

4. I am afraid that not one of these contentions carry merit or conviction.

5. For the purpose of constituting and regulating the Armed Force for better protection and security of industrial undertakings owned by the Central Government and other industrial undertakings, the Parliament has enacted the Central Industrial Security Force Act, 1968 (henceforth referred to as "the Act"). Section 3 empowered the constitution of the Force. Sub-section (2) thereof made it abundantly clear that the Force shall be constituted in such manner and shall consist of such number of Supervisory Officers, Subordinate Officers, Under Officers and other enrolled members of the Force who shall receive such pay and other remuneration as may be prescribed. Section 6 of the Act required every enrolled member of the Force to receive on his appointment a certificate in the form specified in the Schedule under the seal of the Director-General of the Force or such other Supervisory Officer as the Director-General may specify in this behalf and by virtue of the said certificate, all such personnel holding such certificate shall be vested with the powers of an enrolled member of the Force. Section 10 of the Act listed out the duties of the members of the Force. Section 15(1) of the Act declared that every member of the Force shall be considered to be always on duty and shall at any time be liable to be employed at any place within or outside India. Therefore, the fact that the writ petitioner was not

specifically on duty at the hour when the incident took place is not a mitigating factor at all.

6. Exercising the power available to it u/s 22 of the Act, the Central Government made the Central Industrial Security Force Rules, 2001. Rule 34 thereof specified and listed out various penalties that might be imposed for good and sufficient reasons on an enrolled member of the Force. Rule 34(ix) listed out withholding of increment of pay as one of the minor penalties. Rule 37 dealt with the procedure required to be followed for imposing the minor penalties. From a perusal of the record, it is more than abundantly clear to me that the procedure prescribed under Rule 37 has been scrupulously followed by the disciplinary authority while imposing the minor punishment of stoppage of increment without cumulative effect on the petitioner. In fact, no specific instance as to how the said procedure has not been followed has been drawn to my attention.

7. However, learned counsel for the petitioner has contended that the petitioner has not made any statement to the police officer at all nor did he resile from any such statement. It is important to bear in mind that Section 161 of the Code of Criminal Procedure empowers any police officer making investigation to examine any person supposed to be acquainted with the facts and circumstances of the case. Therefore, the act of the Inspector of Police, Manugur in trying to elicit the facts and circumstances relating to the head injury sustained by the Sub-Inspector, Sri P.N. Ramesh from the petitioner cannot be described as an unlawful act. Further, when the petitioner has disputed and sought for supply of the statement, which he has given to the Inspector of Police, Manugur, the disciplinary authority has taken care to secure one such copy from the police on 28.04.2012 and furnish the same to the writ petitioner on 07.05.2012. He has filed his explanation therefor on 09.05.2012. He disputed that he has given any such statement to the police thereafter. It is more than clear that the writ petitioner is varying his stands from time to time.

8. It is rather unfortunate that an incident of this nature should have happened within the precincts of the unit. A Sub-Inspector of the Force has been attacked by a disgruntled Constable and the poor Sub-Inspector succumbed to his injuries immediately thereafter. The call of the duty therefore, requires every one concerned to be alive to these facts and the necessity to protect the interests of the Force itself. Any attempt to dilute the theory of the prosecution by the members of the Force itself is capable of demoralizing the Force. It does not talk well of the discipline of an Armed Force as well.

9. What has been imposed on the petitioner is a minor punishment. His explanation has not been found satisfactory. The disciplinary authority has shown extraordinary restraint in dealing with the petitioner harshly. He has handed down a minor punishment of withholding one increment without cumulative effect. Since the disciplinary authority has properly exercised his discretion, the appellate authority as well as the reviewing authority have not only confirmed the orders of punishment rightly, but have also felt perhaps that the interests of

justice would be better served by not enhancing the said punishment.

10. I do not find any merit in this Writ Petition and hence, it is accordingly dismissed at the admission stage. No costs. Consequently, the miscellaneous applications, if any shall also stand dismissed.