
(2012) 11 RAJ CK 0063
In the Rajasthan High Court
Case No : Civil Special Appeal (W) No. 669 of 2011

Narain Dan

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 08-11-2012

Acts Referred:

Citation : (2012) 4 WLN 451

Hon'ble Judges : Vineet Kothari, J;Dinesh Maheshwari, J

Bench : Division Bench

Advocate : Kuldeep Mathur and Mr. D.S. Sodha, for the Appellant; M.A. Siddiqui, Govt. Counsel, for the Respondent

Final Decision : Dismissed

Judgement

Dinesh Maheshwari, J.—This intra-Court appeal is directed against the order dt. 24.01.2011 as passed in CWP No. 10467/2010 whereby a learned Single Judge of this Court, while dealing with the writ petition filed against the punishment order of stoppage of two grade increments with cumulative effect as passed on 27.03.2008 in the disciplinary inquiry against the petitioner-appellant, has proceeded to issue a converse notice to the appellant to show cause as to why the enhanced penalty to the extent of dismissal may not be imposed upon him. In the order impugned, the learned Single Judge has also directed that in the meantime, the petitioner-appellant shall not be posted at any Police Station with independent charge. This intra-Court appeal against the order aforesaid was entertained on 01.07.2011 and while issuing notices, a co-ordinate Bench ordered stay over further proceedings in the writ petition out of which this appeal arises. The interim order was confirmed to last until the decision of this appeal by the order dt. 16.05.2012.

2. Upon taking up of the matter for final disposal, the learned counsel for the petitioner-appellant frankly submits that so far the order imposing penalty of stoppage of two grade increments with cumulative effect is concerned, in the totality of the circumstances, the appellant stands advised not to proceed with

his challenge thereto any further. The learned counsel, however, submits that it had not been a case of such nature delinquency where the petitioner-appellant was to be awarded any higher punishment. The learned counsel points out that the Inquiry Officer, in fact, found the charges against the appellant not substantiated and proceeded to draw the inquiry report of exoneration but the Disciplinary Authority expressed its disagreement and issued notices to the petitioner-appellant. The learned counsel submits that the Disciplinary Authority, despite recording the findings otherwise against the petitioner-appellant on some of the basic facts, found it to be a case for imposition of penalty of stoppage of two grade increments and not beyond. It is submitted that the inquiry in question had been a joint one and the other Senior Officer, i.e., the Circle Inspector, Jaitaran was also proceeded against alongwith the petitioner-appellant; and in relation to the said Circle Inspector, since retired, the order was passed for stoppage of 10% of pension for two years. It is contended that the matter in issue, regarding want of taking prompt and appropriate proceedings in relation to the incident said to have occurred on 04.08.2001, related to the joint and several liability, if at all, of several persons and the petitioner-appellant alone cannot be held responsible in the matter so as to be awarded the extreme punishment of dismissal. Therefore, according to the learned counsel, the proposed proceedings for enhancement of penalty deserve to be dropped. The learned counsel prays that the petitioner-appellant may be permitted to withdraw from the writ petition itself and the matter may be put to an end. The learned Government Counsel does not put the aforesaid submissions to much contention and submits that the Disciplinary Authority has imposed the penalty in accordance with law after examining the entire matter.

3. We have given thoughtful consideration to the entire matter and have examined the record.

4. In sum and substance, the imputations against the appellant had been of his omitting to take prompt action while functioning as Station House Officer at Police Station, Jaitaran in relation to a telephonic information received at about 8:45 a.m. on 04.08.2001 that there had been a case of rape with a girl, who had died and was sought to be cremated. It was alleged that the Assistant Sub-Inspector made the petitioner-appellant aware about the information and the petitioner-appellant, in turn, passed on the information to the Circle Inspector, who directed him to reach the spot but the petitioner-appellant did not immediately register the FIR or even a Marg. It was also alleged that the petitioner-appellant did not reach the cremation ground immediately and omitted to collect the relevant evidence including the remains after cremation. The other imputations had been in continuity with such basic allegations about his failing to take appropriate and requisite proceedings in time and having failed to carry out the instructions of the higher authorities. The charges against the petitioner-appellant had been as under:-

5. After inquiry, the Inquiry Officer reached to the conclusion that the charges

were not proved against the petitioner-appellant and exonerated him in the report dt. 25.05.2005. However, as noticed, the Disciplinary Authority disagreed with the findings of the Inquiry Officer and after hearing the petitioner-appellant, proceeded to hold him guilty and to impose upon him the penalty of stoppage of two grade increments with cumulative effect.

6. After having examined the findings as recorded in the inquiry proceedings in this matter and having examined the material placed on record, in our view, there had been a little ground available to the petitioner-appellant against the inquiry proceedings or the penalty as imposed because, in any case, the case of dereliction of duty was definitely made out against him. However, it is noticed that the Disciplinary Authority found the Circle Inspector concerned also guilty on the similar nature charges regarding the same incident. In fact, the Inquiry Officer had recorded the findings as regards charges Nos. 2, 3 and 4 basically against the said Circle Inspector that he failed to take the necessary and appropriate steps. In the totality of the circumstances, the kind of delinquency imputed upon the appellant called for appropriate penalty but, in our view, it would have been too harsh to impose the penalty to the extent of dismissal as proposed in the order impugned particularly when it has not been shown that the omissions on the part of the petitioner-appellant had been actuated by any ill-intent or mala fide.

7. In the aforesaid view of the matter, when the prayer has been made on behalf of the petitioner-appellant to permit him to withdraw from the writ petition itself, we find no reason to decline this prayer. The learned Government Counsel has also rightly not put the prayer for withdrawal to contention. Therefore, the petitioner-appellant is permitted to withdraw from the writ petition itself and the writ petition bearing number 10457/2010 shall stand dismissed per the force of this order. When the writ petition is dismissed as withdrawn, obviously, and as a necessary consequence, the impugned order dt. 24.01.2011 stands annulled. As a further necessary consequence, this appeal is treated as infructuous; and is dismissed as such.