
(2002) 01 DEL CK 0095
In the Delhi High Court
Case No : C.W.P. No. 1855 of 1996

Rajender Pal Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 15-01-2002

Acts Referred:

Citation : (2002) 3 AD 723

Hon'ble Judges : Dalveer Bhandari, J

Bench : Single Bench

Advocate : Anand Yadav, for the Appellant; Rajiv Shakdhar, for the Respondent

Final Decision : Dismissed

Judgement

Dalveer Bhandari, J.—The petitioner, who was working as a Sub Inspector in the Central Reserve Police Force (for short "CRPF"), was dismissed from service on 19.9.1991 by the disciplinary authority. Aggrieved by that order the petitioner authority. Aggrieved by that order the petitioner filed an appeal before the Inspector General, North Sector, CRPF. The same was also dismissed on 16.12.1991. The petitioner aggrieved by these two orders has now preferred this writ petition with the prayer that the respondent be directed to reinstate him with full back wages and allowances and continuity of service with seniority and other benefits from the date of dismissal.

2. Brief facts necessary to dispose of this petition are recapitulated as under:-

3. The petitioner was appointed as a Head Constable in CRPF on 1.8.1980 and was promoted as a Sub Inspector in 1986. The petitioner was sent on deputation to the Delhi Police w.e.f. 24.1.1989 and was posted at Indira Gandhi International Airport, Delhi as Clearing Officer.

4. While he was on deputation on 11.6.1989 one Mrs. Raj Dulari Kad, an Indian national came to Indira Gandhi International Airport at departure side as she was going to Canada by the British Airways flight. She reported for immigration check

at the counter manned by the petitioner for getting clearance to board the flight. The petitioner in lieu of granting clearance to the passenger because her signature did not tally demanded and accepted illegal gratification of Rs. 200/-. The passenger, Mrs. Raj Dulari Kad, thereafter lodged a complaint with Shree Ram Meena, CP/AFRRO, IGI Airport.

5. The petitioner was summoned and a preliminary enquiry was conducted on the spot. He admitted that he had demanded a bribe from the complainant and upon being reprimanded the petitioner apologised and returned the sum of Rs. 200/- to the complainant in the presence of Inspector Tej Ram and the husband of the complainant, Jagdish Raj Kad.

6. The petitioner was placed under suspension w.e.f. 11.6.1989. The suspension was subsequently revoked on 1.2.1990 and he was repatriated to his parent department, CRPF. In the meanwhile an enquiry which had been commenced by the Delhi Police was concluded and report was submitted on 13.3.1991 by the enquiry officer. The enquiry officer found the charge framed against the petitioner proved beyond any shadow of doubt. In the meanwhile, since the petitioner had been repatriated to his parent department, the report of the enquiry officer was forwarded to the Director General of Police, CRPF, the designated disciplinary authority for issuance of final order on the basis of finding of the enquiry report.

7. At the office of the Director General of Police, CRPF the departmental proceedings were once again scrutinised and a copy of the enquiry report was served on the petitioner on 25.7.1991. The petitioner's representation was considered by the disciplinary authority. By a detailed order dated 19.9.1991, the Deputy Inspector General of Police of CRPF confirmed the findings of the Enquiry Officer and imposed the penalty of dismissal from service on the petitioner w.e.f. 30.9.1991.

8. The petitioner aggrieved by the said order preferred an appeal to the Inspector General of Police, CRPF, the designated appellate authority. The Inspector General of Police after consideration of the appeal rejected the same by order dated 16.12.1992. The petitioner is aggrieved by the orders dated 19.9.1991 and 16.12.1992 and has preferred this writ petition.

9. The petitioner submitted that the enquiry was conducted u/s 21 of the Delhi Police Act, and the same cannot be considered for punishment u/s 11 of the CRPF Act, 1959. According to the learned counsel for the petitioner, Mr. Anand Yadav, the enquiry conducted by the Delhi Police cannot be adopted for the purpose of punishment under the CRPF Act.

10. Learned counsel for the petition, Mr. Yadav also submitted that the provisions of the Delhi Police Act and the CRPF Act are not substitute for each other and both have different provisions and there exists difference in the two sets of Acts and rules. He submitted that under the Delhi Police Act, dismissal is a major punishment and under the CRPF Act the same is a minor punishment. He further

submitted that the Delhi Police Act provides for a show cause notice and the petitioner was not given any show cause notice before the impugned order were passed by respondents No. 2 & 3.

11. Mr. Yadav submitted that the petitioner cannot be governed by two different Acts, namely, the Delhi Police Act and the CRPC Act at the same time for the same action. Mr. Yadav also challenged the enquiry report on the ground that there are contradictions in the version of the prosecution witnesses. He submitted that the statement was recorded in contravention of Rule 16(3) of the Delhi Police (Punishment & Appeal) Rules, 1980.

12. In reply to the allegations of the petitioner, the respondents in their counter affidavit submitted that there is considerable unexplained delay in filing the petition. That the appellate order is dated 16.12.1991 by which the petitioner's services were dispensed with, but that has been challenged in 1996 almost after a lapse of about five years. It is submitted by the respondent that in accordance with the provisions of the Central Reserve Police Force Act, the petitioner continued to be a member of the CRPF even though for some time he was sent on deputation to Delhi Police. The fact that the enquiry was not carried out under the provisions of the CRPF Act and the rules is of no consequence in the instant case. Since the petitioner was on deputation with the Delhi Police, the enquiry was conducted according to the provisions of the Delhi Police Act. It is urged that the procedure of enquiry under the CRPF Act and the Delhi Police Act is *pari materia*. It is also submitted by the respondents that no prejudice whatsoever has been caused to the petitioner and in consonance with the principles of natural justice he was given adequate opportunity to file representation and defend himself.

13. It was also submitted by the learned counsel for the respondents that the adoption of enquiry report conducted under the Delhi Police Act by the petitioner's parent department, CRPF, also did not prejudice the right of the petitioner in defending his case in any manner. It is submitted that the petitioner committed the offence on 11.6.1989 at a point of time when he was on deputation with the Delhi Police. Thus, the enquiry was ordered under the provisions of the Delhi Police Act. The report was submitted on 13.3.1991. In the meanwhile, the petitioner had been reverted to his parent department, CRPF, on 1.2.1990. The punishment could not be awarded by the Delhi Police and accordingly the enquiry report was forwarded to the CRPF for necessary action in accordance with law. It is also submitted by the learned counsel for the respondents that in accordance with the provisions of the CRPF Act, 1949 and rules framed there under and in consonance with the principles of natural justice, the petition was handed over a copy of the enquiry report and was called upon by the respondent vide letter dated 25.7.1991 to file his representation, if any, within 15 days of the receipt of the copy of the report. The petitioner filed his representation with the respondents on 13.8.1991. This CRPF after having considered the representation and the enquiry report came to the definite

conclusion that the petitioner was guilty of the charges frame against him. Therefore, the disciplinary authority, under Rule 27 of CRPF Rules, 1955 read with Section 11(1) of CRPF Act, 1949 imposed the penalty of dismissal from service on the petitioner on 19.9.1991.

14. It is submitted that the above facts clearly demonstrate that the petitioner was given full opportunity to defend himself in accordance with the principles of natural justice and the relevant rules both under the provisions of the Delhi Police Act and the CRPF Act and the rules framed there under. The relevant rules to both the Acts are *pari materia* to each other.

15. Learned counsel for the respondents submitted that the petitioner's grievance that he was not given show cause notice before imposition of penalty and award of punishment does not merit any consideration as in the instant case, the petitioner was not only permitted to make a representation against the findings recorded in the enquiry report, but was also afforded the right to statutory appeal, which the petitioner filed. The petitioner was also entitled to file a revision petition under the provisions of Rule 29 of the CRPF Rules which the petitioner did not exercise and instead filed the writ petition before this Court.

16. I have heard learned counsel for the parties and perused the relevant record and the provisions of law.

17. The scope of enquiry and re-appreciation of the evidence by this Court is rather limited, but in order to see that no injustice is done to the petitioner. I have even perused the evidence in this case. The witnesses have consistently deposed that the petitioner had demanded and accepted the bribe from the complainant for granting immigration clearance as her signature did not tally. On the spot preliminary enquiry revealed that money was demanded and accepted by the petitioner. The petitioner had in fact confessed his guilt and returned the money in the presence of Inspector Tej Ram and the complainant's husband, Jagdish Rai Kad, amongst others.

18. The complainant, Mrs. Raj Dulari Kad had no animus against the petitioner. Why would she lodge a fake complaint against the petitioner at that point of time when she was ready to go to Canada? On careful consideration of evidence on record and submissions made at the Bar, no other conclusion is possible. It was indeed a case of gross misconduct and the disciplinary authority was virtually left with no option but to award the punishment of removal. The petitioner aggrieved by that order preferred an appeal to the Inspector General of Police, CRPF. The petitioner's appeal was also dismissed.

19. In the instant case the petitioner belonged to the CRPF. Though the petitioner was sent on deputation to the Delhi Police, but he continued to remain a member of CRPF. In awarding punishment, the provisions of Crpf Act and Rules were correctly applied to the petitioner. The punishment awarded and the procedure adopted by the respondents were in accordance with the CRPF Act and Rules.

20. I also do not find merit in the contention of the petitioner that the enquiry conducted under the Delhi Police Act could not be adopted under the CRPF Act. There is no provision of the CRPF Act which prohibits adoption of departmental enquiry held under the provisions of the Delhi Police Act when a member is sent to Delhi Police Act on deputation. The adoption of the enquiry did not in any way prejudice the rights and interests of the petitioner in any manner. The petitioner was given adequate opportunity to defend himself and there has been no violation of the principles of natural justice to any extent.

21. Irrespective of the nomenclature, the punishment of dismissal from service is a major punishment. Even though the petitioner was sent on deputation to the Delhi Police, he continued as a member of the CRPF. Hence, the provisions of the CRPF Act and Rules applied to the petitioner. The punishment awarded and the procedure adopted were in accordance with the CRPF Act and the Rules framed there under.

22. In view of the aforesaid conclusions, the writ petition being devoid of any merit is accordingly dismissed. In the facts and circumstances of the case, the parties are directed to bear their own costs.