
(2013) 08 MAN CK 0003
In the Manipur High Court
Case No : Writ Petition (C) No. 1243 of 2005

Rajkumar Dwivedi

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 22-08-2013

Acts Referred:

Citation : (2013) 08 MAN CK 0003

Hon'ble Judges : N. Kotiswar Singh, J

Bench : Single Bench

Advocate : Jalalluddin, for the Appellant; C. Komol, CG, SC, for the Respondent

Judgement

N. Kotiswar Singh, J.—Heard Md. Jalalluddin, learned counsel appearing for the petitioner and Mr. C. Komol, learned counsel appearing for the respondents. The present petition has been filed challenging the dismissal of the petitioner from service vide order dated 15.10.2001 issued by the Commandant, 110th Bn. CRPF, Mantripukhri.

2. The brief facts of the case, as may be relevant for the purpose of deciding this case, may be stated as follows.

3. The petitioner was initially appointed in the Rapid Action Force, Wazirabad, Delhi and thereafter, he was transferred to Central Reserve Police Force (CRPF). The petitioner while he was on duty in Tamil Nadu, was proceeded against in a Departmental Enquiry in 2001 on six counts of charges that on 16.12.2000 he consumed alcohol while on duty at Sengathalai check/out post and he also abused and manhandled the Guard Commander without any provocation and he misused his service weapon by firing one live round of ammunition and also created public nuisance by dancing on the road.

4. The aforesaid articles of charges are reproduced hereinbelow:--

ARTICLE-I

That, the said No. 923050565 Ct/GD Rajkumar Dwivedi of C/110/Bn CRPF while

functioning as Ct/GD on 16/12/2000 at about 19 hours committed an act of misconduct in discharge of duty in his capacity as a member of the Force u/S. 11(1) of CRPF Act 1949, in that he consumed alcohol while on duty at Sengathalai check/out post which is in total violation of camp standing order.

ARTICLE-II

That, during the aforesaid period and while functioning in the aforesaid office, the said No. 923050565 Ct/GD Rajkumar Dwivedi of C/110/Bn CRPF was guilty of misbehavior in the discharge of his duty in his capacity as a member of the Force u/s 11(1) of CRPF Act 1949 in that he abused and manhandled No. 850778842 LNK/GD M.A. Khan (Guard Commander) without any provocation on 16/12/2000 evening at Sengathalai check/out post after consuming alcohol.

ARTICLE-III

That, during the aforesaid period and while functioning in the aforesaid office, the said, No. 923050565 Ct/GD Rajkumar Dwivedi of C/110/Bn CRPF was guilty of neglect of duty/remissness in the discharge of his duty in his capacity as a member of the Force u/s 11(1) of CRPF Act 1949 that on 16/12/2000 at about 2030 hours he misused the Govt. weapon SLR 7.62 MM Butt No. 294 and body No. 15276020 issued to him by firing one live round/ammunition from the said weapon while on duty in Morcha No. 2.

ARTICLE-IV

That, during the aforesaid period and while functioning in the aforesaid office, the said No. 923050565 Ct/GD Rajkumar Dwivedi of C/1 10/Bn CRPF was guilty of neglect in the discharge of his duty/misbehavior in his capacity as a member of the Force u/s 11(1) of CRPF Act 1949 in that, on 16/12/2000(AN) after consuming alcohol with one Naik of Tamil Nadu Special Police came out from the lines of the Sengathalai check/out post and started dancing on the road thus created public nuisance and thereby tarnished the image of the discipline force.

ARTICLE-V

That, during the aforesaid period and while functioning in the aforesaid office the said No. 923050565 Ct/GD Rajkumar Dwivedi of C/110/Bn CRPF was guilty of disobedience of orders in his discharge of his duty in his capacity as member of the Force u/s 11(1) of CRPF Act 1949 in that No. 923050565 Ct/GD Rajkumar Dwivedi, became aggressive and misbehaved with Shri S.C. Jha, Asst. Commandant on 16/12/2000 evening when Shri S.C. Jha was making enquiries about the firing incident which took place at Sengathalai check/out post on the same date.

ARTICLE-VI

That, during the aforesaid period and while functioning in the aforesaid office the said No. 923050565 Ct/GD Rajkumar Dwivedi of C/1 10/Bn CRPF was guilty of disobedience of orders in his discharge of his duty in his capacity as member of

the force u/S. 11(1) of CRPF Act 1949 in that he kept on consuming alcohol with Naik of Tamil Nadu Special Police on 16/12/2000, when No. 810691531 High Court/GD Mohan Nair (Post Commander) and No. 850778842 LNK/GD M.A. Khan, post 2-I/C repeatedly requested No. 923050565 Ct/GD Rajkumar Dwivedi to stop consuming alcohol and he did not obey the orders of his post commander, which is total violation of post standing order.

5. On conclusion of the Departmental Enquiry, the disciplinary authority, on the basis of the enquiry report as well as the reply submitted by the petitioner, issued the impugned order dated 15.10.2001 removing the petitioner from service. The appeal preferred by the petitioner was rejected by the appellate authority vide order dated 14.2.2002. The revision petition filed by the petitioner was also dismissed vide order dated 29.4.2003 passed by the revisional authority.

6. The main ground of challenge to the aforesaid order of penalty in the present petition is that the said order of removal of the petitioner from service is too harsh and disproportionate to the charges levelled against the petitioner, as according to the petitioner, the main charge against him is the alleged acts of misconduct or misbehavior in a drunken stage and even if the said charges are held to be proved, the punishment against the petitioner is too excessive. In other words, the contention of the petitioner is that the penalty imposed is not commensurate with the gravity of the charges levelled against the petitioner. The petitioner has not raised any serious objection as regards the procedural aspects of the enquiry held against him.

7. In view of the above, without entering into any procedural aspects of the enquiry, to which the petitioner has not raised any serious challenge, this Court would examine whether the penalty of removal from service imposed on the petitioner was disproportionate and not commensurate with the charges levelled and proved against him.

8. As mentioned and quoted above, there were as many as six charges levelled against the petitioner. Apart from the charge of consuming alcohol while on duty, there are other serious charges of misconduct and acts of indiscipline. The petitioner has been also charged of abusing and manhandling the Guard Commander without any provocation after consuming alcohol. Similarly, he has been also charged of firing one live round/ammunition from his service weapon while on duty. Apart from that, he has been charged of dancing on the public road, thus creating public nuisance and tarnishing the image of the disciplined force. He has been also charged of mis-behaving and acting in an aggressive manner with one Assistant Commandant, while he came to make enquiries about the incident.

9. All the charges against the petitioner have been held to be proved after giving necessary opportunity to the petitioner. Perusal of the impugned order of removal shows that the petitioner has been found to have used very offensive and filthy language to his higher officials after consuming alcohol which was unbecoming to

a person in a disciplined force. Consumption of alcohol by the petitioner had been proved as he was medically examined on the same day at a Government hospital. Even if consuming alcohol on duty is held to be not such a serious charge to warrant removal from service as contended by the petitioner, firing live round in a state of inebriated condition which could have resulted into loss of lives, was highly unbecoming of a person who had been trained to use arms with maximum care and precaution and restraint, which could not have been lightly dealt with. These acts of indiscipline have been compounded by the fact that the petitioner had been found to have used offensive language against his superior officers even to the extent of not heeding to his superior official, the Assistant Commandant, who reprimanded him on his behavior. Therefore, a person belonging to a disciplined force on consuming alcohol has been found to be behaving in such an indisciplined manner challenging the authority of the superior officers and also of being reckless and irresponsible in firing live rounds which could have proved fatal. These acts combined together would make the proven misconducts of the petitioner grave and serious enough to warrant removal from service. Such an act of gross indiscipline could not have been countenanced in a discipline force like CRPF as condoning such acts may also encourage similar behavior in future by the petitioner and also by others. Such a behavior, if not sternly dealt with may set wrong precedence and example to others.

10. Law is well settled that Court would not normally interfere with the quantum of punishment unless such punishment is too shocking to the conscience of the Court. In the present case, considering the facts and circumstances of the case, as discussed above, we are of the opinion that it cannot be said that the punishment of removal imposed on the petitioner has shaken the conscience of the Court or is disproportionate to the acts of misconduct proved. Accordingly, we are of the view that the order of removal of the petitioner from service cannot be said to be disproportionate or not commensurate with the aforesaid charges all of which have been held to be proved. We, therefore, are not inclined to interfere with the impugned order dated 15.10.2001 removing the petitioner from service. Accordingly, the writ petition stands dismissed.