
(2010) 05 RAJ CK 0003
In the Rajasthan High Court

Satvir Singh Godara

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 19-05-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 222, 223, 302

Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 — Rule 16

Citation : (2010) 3 RLW 2777 : (2011) 1 SLR 136

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Vineet Kothari, J.—These two petitioners who were working as police constables were dismissed from service by the impugned order dated 3.7.1995 passed by the Disciplinary authority, namely, the Superintendent of Police, Sri Ganganagar.

2. An enquiry upon the charges framed under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (hereinafter referred to as the CCA Rules, 1958) was instituted against them and charges against both of them was that on 2.4.1994 out of six accused persons, Purna Ram, Kuldeep Singh, Jagat Pal, Raji alias Balvindra Singh, Billu, Nakli alias Darshan, who were being taken by these two police constables to the Court of learned Munsif and Judicial Magistrate, Sadulshahar, the two accused persons, namely, Nakli @ Darshan Singh and Billu after Court hearing escaped from their custody by collusion with these two police constables and one of the petitioners Satveer Singh who unfortunately died during the pendency of this writ petition took these two accused persons, to their village from Sadulshahar in jeep No. HRN 3489 and there, these two accused persons escaped from his custody and after return, they reported the matter to the local police Station at Sadulshahar. The allegation against the petitioner, namely, Jai Singh Meghwal was that he was also hands-in-glove with the accused persons and he permitted Satveer Singh to take away these two accused persons and did not report the matter to the local police

station.

3. An enquiry was held against the two delinquent constables by the Additional Superintendent of Police, Hanumangarh and the enquiry report dtd. 19.6.1995 is on record. In the enquiry the petitioners were found guilty after recording the statements of various persons like P.W.1 Joginder Singh, a Home Guard, who checked the jeep in question in the middle of the way from Sadulshahar to Alipura, PW.2 Neela Singh, P.W.3 Jamna Das, Driver of the jeep in which the petitioner Satveer Singh took these two accused persons from Sadulshahar to their village Alipura on 2.4.1994. P.W.4 Mahendra Kumar, SHO Police Station Sadulshahar, PW.5 Purna Ram (accused), PW.6 Jagat Pal (accused), PW.7 Kuldeep Singh and PW.8 Sh. Hari Prasad Katara, CO, Sangaria, An FIR under Sections 222 and 223 I.P.C. was also registered, namely, FIR No. 83/1994 in the Police Station Sadulshahar which was exhibited as Ex. P/3 against these two police constables.

4. On the basis of evidence in the form of statements of various persons which came before the Enquiry Officer, he found that these two police constables were guilty of dereliction of duty and grave misconduct. The defence set up by these two delinquent officials was that at around 3.30 p.m. on 2.4.1994 when these two persons were standing at the Bus Stand, Sadulshahar, these two accused persons Darshan and Billu made an excuse that they have to be taken for their natural call (latrine) and the petitioner Satveer Singh took them to one side of the bus stand and there they forced themselves free from his custody and ran away and he came back running after about 15-20 minutes to the bus-stand and informed the other police constable Jai Singh and both of them then reported the matter to the Police Station, where Mahendra Singh CI, PW. 4 recorded the said FIR. The Enquiry Officer found that this defence was false and not believable as one of the delinquent official was found to have deliberately taken these two persons from Sadulshahar to Alipura and let them off for extraneous reasons.

5. On the basis of said enquiry report, a show cause notice was given to both the petitioners on 3.7.1995 who filed a detailed reply thereto on 4.8.1995 and after considering the findings of the Enquiry Officer and the explanation of these petitioners, the Disciplinary Authority, namely, the Superintendent of Police passed the impugned dismissal order on 29.8.1995.

6. The appeal filed by the present petitioners was also dismissed by the Dy. Inspector General of Police vide order dtd. 23.1.1996.

7. Mr. P.P. Chaudhary, learned Counsel appearing for the petitioners submitted that the Disciplinary Authority has not recorded any findings on his own as mandated by Rule 16 of the CCA Rules, Rules, 1958 and merely reproducing the findings of the Enquiry Officer, he has imposed the maximum punishment of dismissal from service on the present petitioner, one of whom has even expired during the pendency of these writ petitions. He further submitted that even the Enquiry Officer had no sufficient material before him to arrive at the findings

against the petitioners and these two accused persons escaped from the custody of one of the petitioners Satveer Singh who had to take them on account of their nature's call to a nearby side of the bus-stand Sadulshahar where they ran away from his custody. The learned Counsel for the petitioner also submitted that as fast as another petitioner Jai Singh Meghwal is concerned, he was not responsible in any manner behind the said escape of these two accused persons and therefore, harsh punishment of dismissal cannot be justified. He also urged that even the appellate authority has not passed any speaking order against the petitioner and even if assuming for argument's sake that there was some negligence on the part of the present petitioners, then could not be saddled with extreme punishment of dismissal from service. He, therefore, prayed for quashing of the impugned orders. He relied upon the following judgments:

(i) Vijai Singh v. The Rajasthan State Road Transport Corporation Ltd. in 1993 WLC (Raj.) 577.

(ii) Chidda Singh v. The State of Rajasthan and Ors. 1993 WLC (Raj.) 366.

(iii) Vasudeo K. Hardasani v. The State of Rajasthan and Ors. 1989 (1) RLR 99.

(iv) Madan Lal v. The State of Rajasthan and Anr. WLR 1992 (S) Raj. 158.

(v) Heera Bharti v. State of Rajasthan and Ors. WLR 1992 (S) Raj. 280.

(vi) Union of India and others Vs. Giriraj Sharma,

(vii) Rajasthan State Road Transport Corporation and Ors. v. Shri Ram Yadav 1995 WLC (Raj.) 16 : RLW 1995(2) Raj. 238.

8. On the other hand, Mr. Manoj Purohit learned Counsel appearing for the respondents urged that the findings of the Enquiry Officer are detailed and based on cogent material and it was a very serious lapse on the part of the petitioners from whose custody two accused persons convicted for offence under the NDPS Act and under trial for serious offences escaped from their custody and the petitioners were hands-in-glove with them and one of the petitioners even took these two accused persons in the jeep from Sadulshahar to their village Alipura and it appears that the petitioner Satveer Singh was with the accused persons as they left Sadulshahar Bus stand at around 1 to 1.30 p.m. in the afternoon, whereas the report about their escape was made only around 5.30 p.m. in the evening with the police Station Sadulshahar. He further alleged that even PW.1 Joginder Singh, Homeguard checked the said jeep on the way from Sadulshahar to Alipura, but due to petitioner Satveer Singh being in uniform did not ask for further details, but he deposed before the Enquiry Officer that the said police official along with two persons and two ladles at the back of said jeep were found on the way from Sadulshahar to Alipura. Even the driver of the said jeep PW.3 Jamna Das deposed before the said Enquiry Officer that he took the said police constable with two accused persons from Sadulshahar to Alipura. The learned Counsel for the respondents has, therefore, urged that false story of nature's call of these two accused and their further escape from the custody of Satveer

Singh is not believable and on account of their serious misconduct, the punishment of dismissal from service is absolutely justified and he prayed for dismissal of the writ petition. He relied upon the judgment of the Hon''ble Supreme Court in the case of Commissioner of Police, New Delhi Vs. Narender Singh,

9. I have heard the learned Counsels at length and perused the record and the judgments cited at the bar.

10. In the opinion of this Court, both these writ petitions deserve to be dismissed. The reasons are as follows:

11. The Enquiry Officer, held a detailed enquiry against these two petitioners and findings recorded by the Enquiry Officer after recording the statement of various persons including the driver of the jeep No. HRN 3489 who took the petitioner No. 1 from Sadulshahar to Alipura along with two accused persons at around 2 p.m. on 2.4.1994 and the said fact is fortified by the statements of PW.1 Joginder Singh, a home-guard, another Government servant who checked the said jeep on both ways of transit from Sadulshahar to Alipura and these two witnesses having sustained in cross-examination before the Enquiry Officer leaves no manner of doubt that the present petitioners-constables were hands-in-glove with the accused persons and one of the petitioners having taken these accused persons who were already convicted in other matters for serious offence under the NDPS Act and the defence put up by the petitioner is a make-believe story and they allowed the two accused persons of serious offences to escape from their custody on 2.4.1994. The said findings of the Enquiry Officer affirmed by the Disciplinary Authority after consideration of the explanation given by the petitioner further goes to show that these two petitioners for extraneous reasons allowed the said two accused persons to escape from their custody. The very fact in the form of findings of the Enquiry Officer that one of the petitioners sat in the jeep and took the said two accused persons to their village in the said jeep and left them in their village shocks the conscience of this Court. The Police officials in whose custody the accused persons are taken to Courts cannot be allowed any sympathy or leniency in such matters if such a grave charge is proved against them. The defence put up by the present petitioners before the Enquiry Officer as well as before this Court that the two accused persons had made an excuse of nature''s call and therefore, the petitioner Satveer Singh took them to the side of the bus-stand at Sadulshahar from where they escaped was apparently a make-believe story and from the crowded bus- stand during the duty time, it seems quite improbable that these two persons escaped from the custody of the police with handcuffs on them. As against this, these two accused persons having travelled with one of the petitioner Satveer Singh from Sadulshahar to Alipura and that fact having been proved by the driver of the jeep as well as the home-guard who checked the vehicle in transit itself shows beyond pale of doubt that these two petitioners were guilty of dereliction of duty and serious misconduct. Without consent of one of the petitioners Jai Singh Meghwal, it could not have

happened like this and therefore, his guilt and misconduct is also established. The Disciplinary Authority as well as the Appellate Authority have applied their mind to the relevant evidence and facts and the orders passed by them cannot be said to be laconic or non-speaking orders. The punishment of dismissal from service also cannot be said to be disproportionately higher, in the facts and circumstances of the case. The very deterrent value of punishment in the such cases has to be kept in mind and if such persons guilty of allowing accused persons to run away from their custody who are accused of serious offence under the NDPS Act and offence like u/s 302 IPC are taken lightly, the very purpose of holding disciplinary action in such matters would be frustrated. Therefore, imposition of punishment by way of dismissed appears to be absolutely justified in the facts and circumstances of the case. The Appellate Authority also passed an affirmance order after dealing with the grounds raised by the petitioner in the departmental appeal. The Hon'ble Supreme Court in the case of Commissioner of Police v. Narendra Singh has clearly laid down in para 12 as under:

12. It is not in dispute that the standard of proof required in recording a finding of conviction in a criminal case and in a departmental proceeding are distinct and different. Whereas in a criminal case, it is essential to prove a charge beyond all reasonable doubt, in a departmental proceedings preponderance of probability would serve the purpose. See Kamaladevi Agarwal Vs. State of West Bengal and Others,

12. As against this, the judgments relied upon by the learned Counsel for the petitioners do not apply in the facts and circumstances of the present case without any dispute as to legal proposition laid down therein.

13. Even an FIR was lodged against the present petitioners under Sections 222 and 223 IPC dealing with the offence relating to intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed and escape from confinement or custody negligently suffered by public servant. The fate of these FIRs is however not placed before this Court.

14. Consequently, this Court finds no force in the present writ petitions filed by the petitioners and the same are accordingly dismissed. No order as to costs.