

(2003) 08 SHI CK 0008
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 1353 of 1993

Smt. Suman Devi and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 27-08-2003

Acts Referred:

Central Industrial Security Force Act, 1968 — Section 8
Central Industrial Security Force Rules, 1969 — Rule 29A
Constitution of India, 1950 — Article 311

Citation : (2004) 1 ShimLC 145

Hon'ble Judges : V.K. Gupta, C.J; R.L. Khurana, J

Bench : Division Bench

Advocate : Kuldip Singh Kanwar and Jitender Thakur, for the Appellant;

Judgement

V.K. Gupta, C.J.—The only point which Mr. Kanwar Kuldip Singh has urged during the course of hearing of this petition, assailing the dismissal order of late Manohar Singh Kanwar, was that the Commandant of the CISF Unit who passed the order on 6th July, 1988 was not competent to do so. Mr. Kanwar has, while assailing the order on this ground referred to the appointment order of the Petitioner issued on 18th May, 1976. Even though the appointment order has been issued by the Assistant Inspector General of CISF and undoubtedly, the Assistant Inspector General is an officer equivalent in rank to a Commandant, that point is not relevant for our consideration because undoubtedly, the Commandant of a Unit of the CISF is a competent authority to impose the penalty of dismissal of an Assistant Sub Inspector of CISF.

2. Section 8 of the Central Industrial Security Force Act, 1968 clearly lays down that, subject to the provisions of Article 311 of the Constitution and such Rules as the Central Government may make under the Act, any Supervisory Officer may dismiss any member of the Force. It is under the aforesaid power flowing from 1968 Act that the Central Industrial Security Force Rules, 1969 were framed. Rule 29-A reads thus:

29A. Disciplinary Authority: The disciplinary authority in respect of a member of the Force for the purpose of imposing any particular penalty or the passing of any disciplinary order shall be the authority specified in this behalf in Schedule II under whose administrative control the member is serving and shall include any authority mentioned in the said schedule superior to such authority.

3. Since the Disciplinary Authority in respect of a member of the Force for the purposes of imposing any penalty has been specified in Schedule-II, a look at Schedule-II clearly reveals that under the column "nature of disciplinary orders" in Sr. No. 2 against the entry "dismissal", Commandant in column No. 6 is prescribed as the Disciplinary Authority who can impose the punishment/penalty of dismissal on all the members of the Force excepting Inspectors. Late Manohar Singh Kanwar was an Assistant Sub Inspector which is lower in rank than an Inspector and therefore, irrespective of who had appointed him or whoever was the appointing authority, commandant is the authority prescribed in the 1969 Rules who was competent to impose the penalty of dismissal. Since this was the only point urged against the dismissal order, we hold that the order did not suffer from any legal infirmity.

4. At this stage, Mr. Kanwar submits that the dues which were payable in respect of the deceased Manohar Singh Kanwar have not been paid so far and that we should issue an order directing the Respondents to make such payment to the writ Petitioners who are the legal heirs of the deceased Manohar Singh Kanwar. While making this submission Mr. Kanwar has drawn our attention to prayer (ii) in the writ petition wherein it has been specifically mentioned that GPF, Insurance and other claims of the deceased lying with the Respondents may be ordered to be paid.

5. Undoubtedly whatever amounts are lying with the Respondents and which were payable to the deceased Manohar Singh Kanwar, and have not been released so far, Respondents are liable to make such payment to the Petitioners, who are the legal representatives of the deceased Manohar Singh Kanwar. We accordingly direct the Respondents, particularly Respondent Nos. 2, 3 and 4 to ensure that all such dues as were payable in favour of deceased Manohar Singh Kanwar and have not been paid so far shall be paid to the Petitioners within a period of three months from the date the Petitioners submit a representation to Respondent No. 2 in this behalf or make an application in the prescribed form, enclosing also therewith a copy of this order.

6. Petition disposed of. No orders as to costs.