
(2013) 05 DEL CK 0281

In the Delhi High Court

Case No : Writ Petition (C) No. 3363 of 2013

Suresh Kumar

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 21-05-2013

Acts Referred:

Central Reserve Police Force Act, 1949 — Section 11(1)

Citation : (2013) 05 DEL CK 0281

Hon'ble Judges : Gita Mittal, J;Deepa Sharma, J

Bench : Division Bench

Advocate : Ankur Chhibber, for the Appellant; Joginder Sukhija, CGSC and Mr. Yogesh Yogi, for R-1 to 3, for the Respondent

Final Decision : Disposed Off

Judgement

Gita Mittal, J.—A disciplinary inquiry was conducted against the petitioner on the charges of indiscipline/misconduct/misbehaviour u/s 11(1) of the CRPF Act, 1949. The petitioner was found culpable. The findings in the court of inquiry officer were approved by the disciplinary authority by an order 20th January, 2010. No violation of the requirement of principle of natural justice in the conduct of the disciplinary proceedings has been pointed out. The petitioner was given an opportunity to represent against the recommendations of the inquiry officer in the inquiry report as well. After consideration of the entire matter, by an order dated 24th June, 2010, the Commandant 131 Battalion, CRPF found the petitioner guilty and imposed punishment of dismissal from service. Aggrieved thereby, the petitioner filed the statutory appeal to the Deputy Inspector General of Police which was dismissed by an order passed on 18th October, 2010. The petitioner further assailed the same by way of revision petition to the Inspector General of Police of the CRPF which revision was also dismissed by an order passed on 7th September, 2011.

2. Before this court, the petitioner assails the afore noticed orders of the disciplinary; appellate and revisional authorities primarily on the ground that the

complainant in the case, himself made a statement in the inquiry that no incident as alleged has arisen or took place. It is submitted that three other witnesses supported this statement of the complainant and therefore the case against the petitioner must be disbelieved. We are unable to agree with this submission made on behalf of the petitioner inasmuch as there is ample evidence of five other witnesses to the contrary. Even otherwise, there is every possibility of the complainant and the three witnesses having been won over by the petitioner in the facts and circumstances of the case.

3. At this stage, Mr. Ankur Chhibber, learned counsel representing the petitioner confines the challenge to the submission that the punishment of dismissal from service is grossly disproportionate to the nature of charges on which the petitioner was tried.

4. It is submitted by Mr. Chhibber, learned counsel for the petitioner that by virtue of the punishment which has been imposed upon the petitioner, all avenues of further employment even in the private sector have been foreclosed. Learned counsel contends that the present case did not call for imposition of the harshest penalty of removal from service. It is submitted that if in case the petitioner was to be put out of the uniformed force, the respondents had other options available to them.

5. It is submitted that the petitioner has an unblemished record of more than 12 years of service without any punishment ever having been imposed upon him. It is further contended that according to the respondents the incident took place which resulted in commencement of the disciplinary proceedings against the petitioner was without any premeditation. It is submitted that this circumstance ought to have been considered as a mitigating circumstance while considering the punishment imposed upon the petitioner by the disciplinary, confirmed by the appellate and revisional authority. A prayer in this regard was made before the appellate and revisional authority by the petitioner but the same has not been noticed.

6. Mr. Chhibber submits that the matter may be remanded back to the revisional authority for consideration on this aspect of the matter.

7. On a consideration of the above submission, while upholding the finding of guilt of the petitioner on the charges for which the disciplinary proceedings were conducted against him, we quash the punishment imposed upon the petitioner by the orders dated 24th June, 2010, confirmed by the orders dated 18th October, 2010 and 7th September, 2011. The matter is hereby remanded to the revisional authority, as prayed by learned counsel for the petitioner, for reconsideration of the matter from the aspect of the appropriate punishment which deserves to be imposed upon the petitioner.

8. The petitioner is given an opportunity of making representation on the above aspect to the revisional authority within a period of four weeks from today. The order shall be passed by the revisional authority within six weeks of receipt of

representation from the petitioner and shall be promptly communicated to him. We make it clear that it shall be open for the revisional authority to take a considered view with regard to the punishment uninfluenced by any observations made by us today in the matter.

This writ petition is disposed of in the above terms.

Dasti to learned counsel for the parties.