

IN THE HIGH COURT OF DELHI AT NEW DELHI

+WP(C) No.2016/2004

Date of Decision:07.04.2008

#Const. Durg Singh

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Petitioner

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Through: Mr. D.S.Kauntae, Advocate

Versus

\$Union of India & Ors.

.....

Respondents

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Through Ms.Maninder Acharya,Adv.

CORAM :-

***THE HON'BLE MR.JUSTICE A.K.SIKRI**

THE HON'BLE MR. JUSTICE J.M. MALIK

- 1.Whether Reporters of Local papers may be allowed to see the Judgment?
- 2.To be referred to the Reporter or not?
- 3.Whether the judgment should be reported in the Digest?

A.K. SIKRI, J (Oral).

The petitioner who as per the averments made in the petition itself, is Class 8th passed from Junior High School, Shera Sabla, District Mathura, applied for and was selected to the post of cook in the Central Reserve Force. He was issued appointment letter in May 1994. At the time of joining the service, the

petitioner had also filled Verification Roll Form in which he had to furnish various informations as asked for in the said Form. Against column no. 12 pertaining to his involvement, if any, in a case, it was specifically asked therein as to whether he had been arrested, prosecuted, kept under dentention or bound down/fined, convicted, by a Court of law for any offence etc. This column also directed that the applicant should give information, if any case is pending against him in any Court of law. In the form filled by the applicant, the said Column No.12 was left blank.

After the petitioner joined the service the respondent had asked for his character and antecedents verification report from the District Magistrate, Mathura as the petitioner was the resident of Mathura. On 24.6.95 a report was sent by District Magistrate duly verified by two Additional DIGs, CRPF. As per this report, the petitioner was involved in a criminal case no.106/93 under Section 452 and 324 IPC. On receipt of this report the Commandant/Respondent no. 5 decided to hold an enquiry against the petitioner. A charge-sheet was served upon him and one Mr. P.V. PILLAI, Deputy Commandant was appointed as the Enquiry Officer. As per the charge-sheet, following charges were framed against the petitioner:

“That the said No.951380048 Cook Durg Singh while functioning as Cook of 91 Bn committed an act of misconduct 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 deliberately concealed the fact regarding his involvement in Criminal Case No.106/93 u/s 452 and 324 IPC as per verification report received from the District Magistrate, Mathura, vide letter No.392/verification/95 for getting enlistment in CRPF.”

The Enquiry Officer gave the report holding that the aforesaid charge stood proved. On the basis of the said enquiry report, the petitioner was given the penalty of removal from service vide orders dated 19.4.1996. It was followed by a formal order passed by the Commandant on 1.5.1996 stating that the petitioner's services were terminated from 25.4.1996. The petitioner preferred appeal thereagainst which was rejected by the Appellate Authority vide orders dated 19.9.1996. He filed Revision Petition which was also dismissed. Thereafter, present petition is preferred by the petitioner challenging the impugned order of removal as well as subsequent orders passed by the Appellate Authorities and Revisionary Authority.

Mr. Kauntae, learned counsel appearing for the petitioner made the following submissions in support of petitioner's case:

(a) The charge sheet was served upon the petitioner under section 11(1) of the

C.R.P.F. Act, 1949 and impugned order of removal from service was also

passed by the respondent under the same provision, namely, Section 11(1) of the Act and Rule 27 of the C.R.P.F. Rules. His submission was that under Section 11, only minor penalty can be imposed and thus the Disciplinary Authority had no power to impose major penalty vide the impugned orders once the proceedings were initiated against the minor penalty proceedings.

(b) That the entire charge framed against the petitioner was misconceived inasmuch as the petitioner had not suppressed any information or given false information as the column 12 in the Verification Roll Form was left blank. From this it was sought to argue that the petitioner did not even answer this question and therefore there was no question of giving false information as is clear from the fact that the column 12 in the Verification Roll is left blank.

(c) The last submission of learned counsel for the petitioner was that the petitioner was not much educated as he was only 8th Class passed. It was also submitted that the petitioner was involved in the said criminal case falsely and he was even acquitted by the court of law. This information was supplied by him to the Enquiry Officer when the enquiry was pending

but was not taken into consideration. Moreover having regard to these facts the penalty of removal is clearly disproportionate to the charge.

Ms.Maninder Acharya, learned counsel appearing for the respondent opposed the aforesaid submissions of the counsel for the petitioner, a note whereof shall be taken while dealing with these submissions.

We now proceed to discuss the aforesaid arguments advanced by the learned counsel for the petitioner seriatim.

A. Since first submission is based on Section 11 of the Act, it would be prudent to quote this provision:

“11. Minor punishments.-

(1) The Commandant or any other authority or officer as may be prescribed, may subject to any rules made under this Act, award in lieu of, or in addition to, suspension or dismissal any one or more of the following punishments to any member of the Force whom he considers to be guilty of disobedience, neglect of duty, or remissness in the discharge of any duty or of other misconduct in his capacity as a member of the Force, that is to say,-

- (a) Reduction in rank;
- (b) Fine of any amount not exceeding one month's pay and allowances;
- (c) Confinement to quarters, lines or camp for a term not exceeding one month;
- (d) Confinement in the quarter-guard for not more than twenty-eight days, with or without punishment drill or extra guard, fatigue or other duty; and

- (e) Removal from any office of distinction or special emolument in the Force.”

No doubt, heading of Section 11 is `minor punishment'. Further punishments which are stipulated in Clauses (a) to (c) are also minor punishments. However, in the body of sub-section(1) it is clearly stated that the minor punishments prescribed therein can be given in addition to suspension or dismissal. Ms.Maninder Acharya argued that under Section 11, punishment of dismissal can be given. She referred to the Division Bench judgments of this Court, taking this view, which are as follows:

1. Order dated 6.1.2003 passed in CWP No.4329 of 2000, entitled Abbas Ali Vs. Union of India & Ors.
2. Order dated 6.12.2001 passed in CWP.No.3920 of 1999 entitled Ram Bihari Shukla Vs. Union of India & Others.
3. Order dated 6.12.2001 passed in CWP.No.4958 of 2000, entitled Khushi Ram Vs. Union of India & Ors.

Mr.Kauntae on the other hand relied upon the judgment of Jammu & Kashmir High Court in the case of Angrez Singh Vs. Union of India and others

2002(6)SLR 565 and that of Gauhati High Court judgment passed in the case of Deep Chand Vs. Union of India & Ors. 2002(3)SLR 665.

In view of the judgments of this Court which have taken a specific view that under Section 11 of the CRPF Act,1949, major penalty of removal or dismissal can be given, it is not necessary even to look into the judgments of the other High Courts.

It is simply because of the reason that we are bound by the judgments of our own court rendered by the Co-ordinate Benches. Learned counsel for the petitioner had, however, argued that the judgment of this Court need reconsideration and from that point of view he had cited the aforesaid judgments. In this case, we are even spared with the aforesaid exercise inasmuch as the matter stands conclusively determined and the controversy is set at rest by the Apex Court's judgment in the case of Union of India Vs. Gulam Mohd. Bhat AIR 2005 SC 4289. The interpretation given by the Supreme Court is same as given by this High Court in the aforesaid judgments which is clear from the reading of para-5 of the judgment. It reads:

“5. A bare perusal of Section 11 shows that it deals with minor punishment as compared to the major punishments prescribed in the preceding section. It lays down that the Commandant or any other authority or officer, as may be prescribed, may,

subject to any rules made under the Act, award any one or more of the punishments to any member of the force who is found guilty of disobedience, neglect of duty, or remissness in the discharge of his duty or of other misconduct in his capacity as a member of the force. According to the High Court the only punishments which can be awarded under this Section are reduction in rank, fine, confinement to quarters and removal from any office of distinction or special emolument in the force. In our opinion, the interpretation is not correct, because the section says that these punishments may be awarded in lieu of, or in addition to, suspension or dismissal."

It is thus clear that major punishment could also be given to the petitioner under Section 11 of the Act.

B. Coming to the second submission, merely because Column 12 in the Verification Roll Form is left blank, we cannot accept the arguments of learned counsel for the petitioner that there is no suppression. When an applicant /candidate who is aspiring to get an employment is asked to fill Verification Roll Form, he is required to fill each and every column therein. It does not appeal to us that the official who was getting the said Verification Roll Form filled would even say the petitioner not to answer the query raised in Column 12. Leaving this column blank would further show that the petitioner knew the implication of the information which he was supposed to supply and, therefore, he intentionally forgot to give the information. We say

so because of the warning which was given in the beginning of the said Verification Roll Form in the following words:

“The furnishing of false information **or suppression** of any factual information in the Verification Roll would be a disqualification and is likely to render candidate unfit for employment under the Government”.

Furthermore, immediately after Col.12, following note is appended:

“Please also see the ‘Warning’ at the top of the Verification Roll”.

Thus not only warning was given in the beginning, it was repeated in Column 12 clearly highlighting the importance of filling this column. In spite thereof when the Column is left blank, one would clearly infer that the petitioner suppressed the information regarding his involvement in a case. We may also note that learned counsel for the respondent produced original records which contains letter dated 7.3.1996 written by the petitioner in Hindi wherein the petitioner has stated that he did not supply the information at Column 12 as he was not aware of the pendency of the case. If that was the explanation given in his aforesaid letter he cannot now contend that he was not asked to supply the information against Column 12 as the justification

which is given in the aforesaid letter is that he could not give the information as he was not aware of the case. In the regular enquiry, charge against the petitioner has been proved. It is not for this Court to sit as an Appellate Authority over the findings recorded by the Enquiry Officer, more so when no case is even sought to be made out that such findings are perverse or based on no evidence. We may also note that the petitioner does not even deny that there was no case under Section 324 and 452 of the IPC pending against him. Therefore, we are not inclined to accept this submission of learned counsel for the petitioner.

C. Insofar as last submission of learned counsel for the petitioner is concerned, we may point out at the outset that the allegation against the petitioner is not about his involvement in the aforesaid criminal case and terminating his services on that ground. Allegation is that he concealed the factum of his involvement and did not disclose the same while answering column 12 of the Verification Roll.

On the issue regarding gravity of the said charge, the learned counsel for the petitioner has relied upon judgment of Supreme Court in the case of U.P.State Road Transport Corpn. And others Vs. Mahesh Kumar Mishra and others (2000)3 SCC 450. However, this judgment would have no application in the facts of the present case as against

that there is a recent judgment of the Supreme Court in the case of **R.Radhakrishnan Vs. The Director General of Police and others** 2007 (12) Scale 539. That was also a case where information about involvement in a criminal case was suppressed by the appellant who was involved in a criminal case registered against him under Section 294(b) of IPC. The Supreme Court was of the opinion that involvement in a criminal case and that too of an offence which was cognizable was required to be disclosed and serious view was to be taken in those cases which related to disciplinary force as is clear from the following observation made therein:

“Indisputably, appellant intended to obtain appointment in a uniformed service. The standard expected of a person intended to serve in such a service is different from the one of a person who intended to serve other services. Application for appointment and the verification roll were both in Hindi as also in English. He, therefore, knew and understood the implication of his statement or omission to disclose a vital information. The fact that in the event such a disclosure had been made, the authority could have verified his character as also suitability of the appointment is not in dispute. It is also not in dispute that the persons who had not made such disclosures and were thus similarly situated had not been appointed”.

In arriving at the above conclusion, the Supreme Court also referred to and relied upon the earlier judgment in the case of **Delhi**

Administration Through Its Chief Secretary and others Vs.

Sushil Kumar (1996) 11 SCC 605. Moreover in series of judgments rendered by this Court it is held that if such an information in the Verification Roll is concealed the concerned employee can be terminated from service.

We, therefore, do not find any merit in this petition and the same is dismissed.

A.K. SIKRI, J.

April 07, 2008
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J.M. MALIK, J.