

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment Reserved on: November 19, 2012*
Judgment delivered on: December 05, 2012

+ **W.P.(C) No.126/2000**

TEJ PAL SINGH Petitioner
Represented by: Mr.Inderjit Singh, Advocate

versus

U.O.I. & ANR Respondents
Represented by: Mr.Rajinder Nischal, Advocate

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J.

1. The petitioner was appointed as a Constable in CISF on April 15, 1988. He had reported posting at CISF Unit, ONGC, Dehradun on July 01, 1996.
2. Under Rule 34 of the CISF Rules, 1969 charges were levelled vide letter dated March 03, 1998 i.e. (i) for his repeatedly unauthorized visiting the family quarter of Lady Ct.Anita Devi at odd hours; (ii) entering into the office of the Coy. Commander Insp.M.S.Sahi and misbehaving with him on February 19, 1998; and (iii) attempting for assault on Ct.Jarnail Singh and attempt to snatch rifle from Ct.Ram Singh Jalal posted at ITD Gate and threatening them of dire consequences.
3. On March 20, 1998 a show-cause notice was issued to the petitioner who submitted his reply denying all the allegations levelled against him. He did not commit any wrong as alleged in the charge-sheet and it was alleged that Insp.M.S.Sahi having some ill motives against him.

4. Sh.K.K.Niranjan was initially appointed as Enquiry Officer on March 28, 1998 and on June 02, 1998 Sh.S.C.Mishra, Dy. Commandant, THDC(T) was appointed as Enquiry Officer in place of Sh.K.K.Niranjan. The Enquiry Officer submitted his inquiry report to the Administrative Officer on August 28, 1998 and the petitioner was served with a copy thereof with the direction that in case, the petitioner wants to clarify the position he may file the objections within 15 days. The petitioner filed his objections to the inquiry report clarifying his position on September 23, 1998 vis-à-vis the three charges levelled against him.

5. On the basis of the inquiry report, the petitioner was punished with 'dismissal from service with immediate effect' vide order dated October 24, 1998 passed by Commandant, CISF.

6. An appeal was filed by the petitioner against the aforesaid order which was dismissed by the DIG, North Zone, New Delhi vide order dated March 22, 1999. The petitioner thereafter filed the present writ petition for quashing the orders dated October 24, 1998 and March 22, 1999.

7. The main argument of the learned counsel for the petitioner is that the inquiry initiated against the petitioner is based on false facts. The Lady Ct.Anita Devi has not lodged any complaint against the petitioner, nor was she summoned as a witness by the Enquiry Officer to support the charges. The allegations levelled by Insp.M.S.Sahi and five others witnessing that the petitioner tried to snatch the rifle of Ct.Ram Singh Jalal have not been proved. In fact, no such incident was occurred. Further the petitioner was not permitted to call the Lady Ct.Anita Devi as a defence witness on the ground that she was a part of the episode. Counsel has relied upon his reply to the charge sheet which stated that due to old family relations, Lady Ct.Anita Devi is his sister and there is nothing wrong to visit his sister's

house. Learned counsel referred to the rejoinder-affidavit which points out that Insp.Sahi who had put the petitioner on charge had a personal enmity with him as during the year 1989-90 when both Insp.Sahi and the petitioner were in the same Unit in Bhopal. With regard to the second charge, it is submitted that the main character involved in the incident was the Lady Ct.Anita Devi only whose behavior and conduct in the office of Insp.Sahi led the petitioner picking up arguments with the other fellow constable. The third charge against the petitioner for abusing Ct.Jarnail Singh who was present at the spot and snatching the rifle from Ct.Ram Singh Jalal and threatening them is also wrong.

8. During enquiry, following documents were filed by the respondents and exhibited; the details are given as under:-

“1. A request letter sent by the Inspector/Duty Gajendra Singh to the Assistant Commandant, dated 17.2.98 and request letter sent by Constable Surendra Singh Negi, Constable J. P. Singh, constable Bahadur Singh, Constable Surendra Singh to the Assistant Commandant (Prosecution Exhibit Nos.1,2,3,4,5).

2. Daily diary No.369, 3782 and 373 dated 19.2.98 (Prosecution Exhibit Nos.1,2,3,4,5).

3. Letter of the Assistant Commandant ONGC Dehradun ordering the force members (Barrack Accommodation) not to visit the members of the family accommodation at their residence vide letter No.B-15014/Anu/29/CISF/98-165 dated 30th June, 1998 (Prosecution Exhibit-9).

4. The duty register of 19.2.98 (Prosecution Exhibit-10).

5. Details of the Posting Duty of the constable Tejpal Singh on the date of the incident (Prosecution Exhibit-11).

6. Roll call register dated 2.2.98, 4.2.98, 8.2.98 and 15.2.98 (Prosecution Exhibits-12, 13, 14, 15).

7. Daily diary No.893,897 dated 19.2.98 (Prosecution exhibit-16 and 17).”

CHARGE NO.1:

“Force No.884654056 Constable Tejpal Singh posted in CISF Unit ONGC Dehradun had been visiting the Govt. Quarter of lady constable Anita Devi unauthorisedly inspite of repeated orders forbidding him from doing so. This act of the force member is act of misbehaviour, misconduct and gross indiscipline.”

9. The petitioner was residing in the Barrack accommodation and admittedly used to frequently visit Anita Devi residence. The lady constable Anita Devi’s residence is situated in the family accommodation block of the force members. The orders preventing the force members of barrack accommodation frequently visiting the family accommodation were being read during the roll call. The photocopy of the Roll Call Register dated February 02, 1998, February 04, 1998, February 08, 1998 and February 15, 1998 containing the parts of this order is present on exhibit page Nos.12, 13, 14 and 15. On this subject, the office of the Asstt.Commandant issued the letter No.B-15014/Sec./29/CISF/98-165 dated 30th June, 1998, ordering the Inspector to make sure that the order is followed and the CHM was instructed to read the order during the roll call for three consecutive days. It is the compliance of this order that the Force Members residing in the barrack accommodation being prevented to visit the family accommodation. During the investigation process the statements of PW-1, PW-4, PW-10, PW-12, PW-13 (Exhibit Page No.1, 2, 3, 4 and 5), it reveals that despite of having knowledge of orders issued he used to frequently visit Anita Devi’s residence. He did not produce any evidence which could prove that he was not visiting Anita Devi’s residence. Instead during the cross-examination, the petitioner himself accepted that he used to go to her residence. He

produced the photocopies of the statements of his wife and Anita Devi's father. Though, the petitioner was not able to prove said letter/statement issued by them but at the same time after having considered the said statement, which revealed that she is not the real sister. He did not deny that he was stopped by the senior officer to visit her and was also warned by the order issued by the Asstt.Commandant dated 30th June, 1998 ordering the petitioner to make sure that the same should be followed. The order was also read during the roll call for three consecutive days. During the investigation, nowhere the petitioner pleaded that he had no knowledge about such orders, rather inspite of these orders the petitioner kept visiting Lady Ct.Anita Devi. We agree with the Enquiry Officer that it would have been better to give a statement of the husband of Lady Ct.Anita Devi that she is petitioner's sister. But the petitioner did not produce him as a witness despite of opportunity given to him in his defence. He was merely insisting to produce Lady Ct.Anita Devi. By letter dated July 09, 1998 (Ex.18) his request was rejected on the grounds that she was part of the incident, thus she cannot appear as a defence witness. By Ex.18 he was asked to produce other evidence in support of his case. We are of the view, had she even allowed to produce as a defence witness, her statement either way could not help the case of the petitioner as the charge against the petitioner was that he was unauthorizedly, inspite of repeated orders, visiting Government quarter of a lady. According to the statement of witnesses who made complaints against him to the effect that his visits create bad impression to their family members. Under these circumstances, on the basis of the statements of the prosecution witnesses and the documents placed on record during the course of inquiry, it proved that charge No.1 has been proved against the petitioner as despite of warning issued by the Asstt.Commandant

dated June 30, 1998 ordering the petitioner to make sure not to visit her but, he was still visiting Anita Devi regularly. The said act of the petitioner no doubt amounts to gross indiscipline and misconduct.

CHARGE NO.2:

“Force No.884654056 Constable Tejpal Singh, posted in CISF Unit ONGC Dehradun misbehaved in the office of the Inspector/Company Commandant M.S.Sahi while being unauthorisedly present in his room. This act of force member is symbol of gross indiscipline, misconduct and misbehaviour.

10. Admittedly, the petitioner came to the office of Insp.M.S.Sahi in civil dress on 9th February, 1998 at about 12’O Clock and asked to meet the Inspector/Duty M.S.Sahi. As soon as PW-3 left to the office of M.S.Sahi to seek his permission, the petitioner followed him and entered the office of Insp.Sahi. As per the statement of witnesses, the petitioner then started shouting as to who was Jarnail Singh to stop him to visit Anita Devi. In case anyone dared to stop him, he would see him. Thereafter, Asstt.Sub Inspector/Duty Thana Ram took the petitioner out of the office of Insp.Sahi and got him out of the gate. The statement of PW-3 was that the petitioner unauthorizedly entered the office of Insp./Duty M.S.Sahi and thereafter behaved indecently. Lady Ct.Anita Devi also came in the office of Insp.Sahi and started abusing Jarnail Singh. It was PW-1 and other witnesses who removed the petitioner as well as Lady Ct.Anita Devi from the office. The said statement was corroborated by the statements of Insp./Duty Gajendra Singh (PW-1), Insp./Fire O.P.Sharma (PW-2), Ct.Jarnail Singh (PW-12) and Head Const./Fire A.H.Sheikh (PW-4) who were present at the spot at the time of the incident. Statement of Inspector M.S.Sahi was also recorded. The operative portion of the statement reads as under:

“The Assistant Commandant Shri R.C. Hurriya

was on election duty at that time. At about 1205 hours to 1210 hours the constable Tejpal Singh in spite of being stopped by the Assistant Sub-Inspector Thana Ram entered their office in civil dress and said I am telling you for the last that I will shoot inspector Jarnail Singh with the help of the police. The very he was talking was very indecent. They tried to calm down him so that he could tell them his grievances, but he said who is constable Jarnail Singh to stop him from going to the lady constable Anita Devi's residence. In spite of this Inspector M.S. Sahi and Inspector Gajendra Singh tried to make Tejpal Singh calm. They told him to describe his grievances and obey and maintain discipline. But constable Tejpal Singh kept repeating that he will not spare constable Jarnail Singh. Then sensing his high tempers M.S. Sahi ordered the Assistant Sub Inspector on duty to take Tejpal Singh out of the IDT Gate and inform the control room at IDT and to write in daily diary about this incident. After taking Tejpal Singh out of the gate the fire Inspire O.P. Sharma came to the office of M.S. Sahi about 1230 hours to discuss about fire related matter, when all the three inspectors were sitting in the office of M.S. Sahi, at about 1240 hours constable Jarnail Singh came to the office of Sahi and said that when he was coming from the main office with the mail, on the way near the Ganga Hotel, constable Tejpal Singh threatened him that if he stops him from going to the residence of Anita Devi he will shoot him with the help of the police. The Inspectors told Jarnail Singh there is nothing to worry about, he will ask Tejpal Singh about this incident. When all this matter was going on, the lady constable Anita Devi came there in uniform and seeing Jarnail Singh, there she started shouting and abusing that you are telling them that Tejpal comes to my residence. I will bury you alive. After this she threw her cap on the floor of the office and attacked Jarnail Singh. By this time Tejpal who was standing near the door of the office and was listening to them rushed in side and shouted. Don't worry Anita, I have come. I will bury Jarnail Singh alive who had

O.P.Sharma separated lady constable Anita Devi when he was the situation getting bad to worse he ordered CHM Head Constable A.H. Sheikh, who by that time had come there, to take constable Jarnail Singh and constable Tejpal Singh out. Head Constable A.H. Sheikh was taking Jarnail Singh, then Anita Devi attached him while abusing, and constable Tejpal Singh also following her out of the office, few seconds after they came out, screaming sound came “Saheb, constable Tejpal Singh is snatching the rifle.” Then all the three inspectors rushed out and saw that constable Tejpal Singh entangled with the constable Ram Singh Jalal, who was the rifle santri on duty, and was trying to snatch his rifle. Other members of the force present there, A.H. Sheikh Head Constable on duty Harish Giri, Constable Mahendra Singh, constable Bahadur Singh and constable R.S. Negi separated Tejpal Singh from constable Ram Singh Jalal with great difficulty, and locked him inside the writer office (Co. Office), from where he sneaked from a window. The uniform shirt of the constable Ram Singh Jalal was torn which was kept under their custody. The head constable Harish Giri’s wrist watch which had fallen from the hand and the chain had broken is being kept as evidence. After that lady constable Anita Devi while abusing went from there. The detailed report the incident is entered into the control room at I.P. Thereafter the detailed information of this incident was given through telephone to Commandant/BHEL Haridwar at about 1345 hours, who ordered initial enquiry of the incident.”

11. The petitioner was given opportunity to cross the witnesses but he did not do so. The statements of the witnesses had gone unrebutted, hence the charge against the petitioner was proved that he unauthorizedly entered into the office of Insp.Sahi. The statements of witnesses PW-1, PW-2, PW-3, PW-4 and PW-12 substantially corroborated with each others, proved that the words and sentences used by the petitioner amount to misbehavior. The

petitioner did not ask any question which could go in his defence. Therefore, charge No.2 is proved.

CHARGE NO.3:

“Force No.884654056 constable Tejpal Singh, who is working in the ONGC Unit of CISF at Dehradun, a unauthorisedly came at the IDT gate on 19.2.98 at about 1300 hours with lady constable Anita Devi and attached while abusing the force No.8503118 constable Jarnail Singh, who was present there and tried to snatch the rifle from the force No.884340467 constable Ram Singh Jalal and threatened other members of the force, who were present there. This behaviour of a member of the force is highly indisciplined, and indecency.”

12. The statements of PW-1, PW-2, PW-3 and PW-4 were recorded who stated that when the petitioner was ousted from the office along with Lady Ct.Anita Devi, he abused Jarnail Singh (PW-12).

PW-12 Jarnail Singh in his statement has deposed that on 19th February, 1998 at about 11:00 hours when he asked the petitioner not to go to the residence of Lady Ct.Anita Devi, the petitioner replied that he would go and nobody could stop him. When after completing his duties, PW-12 was going towards CISF Complex, the petitioner met him on the way and threatened him of dire consequences. When PW-12 went to the office of the Coy.Commandar to inform about that incident, Insp.Gajendra Singh and Insp.O.P.Sharma were also present there and while he was explaining, the Lady Ct.Anita Devi and the petitioner entered into the office. The Lady Constable started abusing for stopping the petitioner from visiting her residence. The petitioner also started abusing. When Lady Ct.Anita Devi attacked PW-12, Insp./Fire O.P.Sharma separated her and at the instructions from Insp./Duty M.S.Sahi, PW-12 came out of the office. After some time, the petitioner also came out of the office and ran towards Ct.Ram Singh Jalal

who was on duty, and tried to snatch his rifle. At that time, Insp./Duty M.S.Sahi (PW-13), Insp.Gajendra Singh (PW-1) and Insp./Fire O.P.Sharma (PW-2) who heard the noise, rushed out of the office. Head Const./Fire A.H.Sheikh (PW-4) and others separated the petitioner and Ram Singh Jalal.

PW-8 Ram Singh Jalal in his statement has accepted that on the date of the incident he was on duty with rifle. The statement of PW-8 is reproduced hereinbelow:

“The force No.884340467 constable Ram Singh Jalal is working in CISF unit ONGC Dehradun since 19.2.98. On 19.2.98 he was posted at the IDT main gate with rifle duty in ‘B’ shift (1300 hours to 2100 hours). Constable Tejpal Singh came there and tried to snatch the rifle. The Harish Giri and CHM Head Constable A.H. Sheikh, who were posted there caught Tejpal Singh. In the scuffle with the constable Tejpal his shirt was torn and the name plate was broken.”

The said fact was corroborated by G.D.Entry which was made on 19th February, 1998 at 13:20 hours at Serial No.372.

The prosecution witnesses PW-1, 2, 3, 4, 5, 11 and 12 affirmed that the petitioner was trying to snatch the rifle. These statements were recorded in the presence of the petitioner. Copies of the same were also given to him. He was also given a chance to question them in his defence. Though the petitioner asked some questions from the witnesses but he failed to prove his case. The petitioner asked the question from PW-5 whether he was successful in his attempt to snatch the rifle; in reply to which PW-5 said that since the rifle was attached to the belt with a chain, so he could not snatch the rifle. According to him, there was a scuffle and when the petitioner tried to snatch the rifle, the shirt of Ram Singh Jalal was torn and the chain of the wrist watch of Harish Giri was broken. In case, the statements of witnesses PW-1 to PW-5, PW-11 and PW-12 are read together it is proved that in

scuffle he tried to snatch the rifle and it has also come on record that his finger prints were on the rifle. Sitting in writ jurisdiction, we can re-assess the evidence produced against the petitioner who has totally failed to demolish the case of prosecution as the Enquiry Officer has given his report after having considered the evidence as well as the conduct of the petitioner. One is failed to understand why more than twelve witnesses would make the statements against the petitioner.

13. In view of reasons stated above, we are not inclined to quash the orders dated October 24, 1998 of dismissal of service and March 22, 1999 passed by the Dy. Inspector General, North Zone, CISF, Ministry of Home Affairs, CISF Campus, Saket, New Delhi.

14. The writ petition is accordingly dismissed with no orders as to costs.

(MANMOHAN SINGH)
JUDGE

(PRADEEP NANDRAJOG)
JUDGE

DECEMBER 05, 2012/ka