

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

% *Judgment Reserved on: April 26, 2013*  
*Judgment Pronounced on: May 02, 2013*

+ **WP (C) 7643/2012**

RAJENDER BHARDWAJ .....Petitioner  
Represented by: Mr.Anil Singal, Advocate

versus

GOVT.OF NCT OF DELHI & ORS ..... Respondents  
Represented by: Ms.Ferida Satarwala, Advocate

**CORAM:**  
**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**  
**HON'BLE MR. JUSTICE V.KAMESWAR RAO**

**PRADEEP NANDRAJOG, J.**

1. Gyaneshwar @ Jojo, convicted for having committed an offence punishable under Section 392/397 IPC had filed Crl.Appeal No.400/2006 challenging he being convicted and sentenced to undergo imprisonment. He sought interim bail pleading that his sister was to be married on June 29, 2006 and he being the only male member in the family his presence was necessary to make necessary arrangement for his sister's marriage. To ascertain the correctness of : (i) marriage of Gyaneshwar's sister; and (ii) there being no other male member in the family, the SHO of the concerned Police Station marked the application seeking interim bail to the petitioner, working as a Sub Inspector. Needless to state the petitioner had to ascertain whether there was no other male member in the family.

2. As per the department the petitioner submitted a report to the SHO recording therein that he had gone to Gyaneshwar's house whose mother informed him that Gyaneshwar's father i.e. her husband had died.

3. It is the further case of the department that when produced before the Court, the report was found to be wanting requiring a proper report to be filed and because petitioner was not available, SI Suraj Bhan was required to conduct further enquiry and submit a report to the SHO; and he submitted a report as under:-

*"Sir,*

*It is stated that matter was listed for 16/6/06 in the High Court of Delhi. It was again listed for 19.6.06 as Court asked for some more information and regarding the fact of marriage and family background of convict Gyanehsvar @ Jojo.*

***On further enquiry it is found that father of the convict Gyaneswar @ Jojo is alive** and apart from him 3 Chachas (paternal uncles) and two Mamas are also assisting in the arrangement for the marriage.*

*Criminal record of the convict was also presented before the Court.*

*Submitted please.*

*Sd-*

*SI Suraj Bhan*

*P.S. Pd Nagar, Delhi*

*19.6.06."*

4. The department alleges that the petitioner deliberately furnished a false report to help Gyaneshwar. On August 28, 2006 a departmental enquiry was initiated against the petitioner on the following grounds of misconduct:-

*(i) He had deliberately submitted a false report to Hon'ble High Court of Delhi on 16.6.06, which could have only illegally helped the robbery convict Gyaneshwar @ Jojo.*

(ii) *He had wilfully defied the legal order of SHO Prasad Nagar to conduct further enquiry into the matter of Gyaneshwar @ Jojo. This he did despite a written warning in the Daily Dairy on 18.6.06.*

(iii) *He has wilfully absented himself from duty on 18.06.06 when he was supposed to go for the checking at 7 PM as per the duty Roster of P.S Prasad Nagar. This absence could have just one motive, that, he wanted to mislead the Hon'ble High Court of Delhi on 19.6.06 with the ill-gotten motive of helping Gyaneshwar @ Jojo.*

5. Along with the Memorandum annexing the Summary of Allegations a list of relied upon documents was annexed, which records that the offending report dated June 13, 2006 prepared by the petitioner and submitted to the Delhi High Court on June 16, 2006 was a listed document.

6. Three witnesses HC Mahender Singh PW-1, SI Suraj Bhan PW-2 and ACP Surinder Singh PW-3 were examined by the department to support the three indictments of which the petitioner was charged off, and we do not burden our opinion by noting the testimony of the three witnesses in detail and the documents proved by them for the Inquiry Officer has opined that Charge No.(ii) and (iii) were not proved. Only Charge No.(i) was held to be proved in respect whereof SI Suraj Bhan PW-2 proved his report submitted by him on June 19, 2006 and ACP Surinder Singh PW-3 deposed that he had marked Gyaneshwar's application to the petitioner for verification.

7. Surprisingly, the record of inquiry produced before us would reveal that the so called report furnished to the SHO by the petitioner which was allegedly produced in this Court was never exhibited. In fact, it is not even a part of the record of the inquiry proceedings. Further, surprisingly, no witness even attempted to exhibit the report.

8. For aforesaid reason we had called for Crl.Appeal No.400/2006, which would evidence that Crl.M.A. No.1030/2006 filed by Gyaneshwar seeking interim bail was listed in Court on June 09, 2006. Notice was issued for June 16, 2006 on which date matter was adjourned for June 19, 2006 requiring a report to be filed. On said date the matter was adjourned noting that no report was filed. The bail application was ultimately dismissed on August 29, 2006. No order records that any report was filed or even produced before the learned Single Judge for perusal.

9. Ignoring as above the Inquiry Officer opined that Charge No.(i) was proved and that the report filed by the petitioner was false.

10. One would reach to a conclusion that the report of the Inquiry Officer has to be set aside because the alleged report statedly submitted by the petitioner was not before the Inquiry Officer and there is no proof that any report was filed in this Court.

11. But we would be failing not to note that the petitioner admitted having prepared and submitted a report recording therein that Gyaneshwar's mother told him that her husband was dead. Thus, petitioner admits having submitted a report which was found to be ultimately incorrect, and would be prima facie guilty of performing his duties perfunctorily i.e. not verifying the correctness of what Gyaneshwar's mother told him.

12. This compels us to deal with the matter a little further.

13. Gyaneshwar's mother, Manorama Devi appeared as DW-1, and stated that when petitioner contacted her she told him that her husband was not living with her since the year 1987 while confirming the marriage of her daughter.

14. As per the petitioner Manorama Devi had told him that her husband was not heard of since 1987 and was dead.

15. It is the job of an Inquiry Officer to consider the evidence in its prospective. The report of the Inquiry Officer assumes that before him a report prepared by the petitioner was proved. In fact, the Inquiry Officer did not even had the benefit of the report. The report of the Inquiry Officer would reveal that he gullibly went by the deposition of PW-2 and PW-3. The Inquiry Officer did not bother to consider Manorama Devi's deposition and the petitioner's version.

16. Let us re-examine the visit of the petitioner to the house of Manorama Devi in the sociological and linguistic perspective peculiar to the sprawling Megapolis i.e. New Delhi.

17. From its magnificent past as the seat of Empires to its vivacious modernity as the Capital of the world's largest Democracy, the city of Delhi represents the multiethnic India. The city of '*Dilwalas*' has a beauty and dynamism where the saga of the bygone era blends with the jovial life style of the 21<sup>st</sup> Century. Migrants from all over India have reached Delhi seeking a livelihood.

18. Language is a means of communication and the predominant language in the city of Delhi is Hindi. Migrants reaching Delhi have to pick up the minimum language skills in Hindi and this explains a problem of the diversity in Delhi when Courts deal with inter-personal communications between two members of the society from different parts of India. 'A' may intend to say something, but is understood by 'B' to mean something else.

19. Instant case is a classic illustration of the same.

20. Meaningfully read, Manorama Devi, an illiterate woman possibly telling petitioner that she not having heard about her husband since the year 1987 could be spoken of in a manner by her where the recipient of the communication in the year 2006 would misunderstand her as if telling

that her husband was dead and this is fortified by the defence taken by the petitioner that he understood Manorama Devi as so conveying to him. Manorama Devi has categorically deposed that she told the petitioner that except her son and daughter who were living with her, she had no clue about the whereabouts of her husband since the year 1987 and on being questioned by the Inquiry Officer she stated that she was not aware whether her husband was alive.

21. The Inquiry Officer was obliged to analyse the testimony of the various witnesses before him keeping in view the fact that the report submitted by the petitioner was not before him.

22. Regretfully, the Central Administrative Tribunal has not even bothered to note that neither prosecution witness in his deposition referred to the report statedly furnished by the petitioner nor the fact that the report was unproved, in fact was not even a part of the record of inquiry. It was merely a listed document. Gyaneshwar never obtained bail. No damage was done.

23. The penalty imposed upon the petitioner is forfeiture of two years approved service entailing a proportionate reduction in pay, which we set aside for our reasons abovenoted. Arrears be paid within 12 weeks.

24. The writ petition is allowed but without any order as to costs.

**(PRADEEP NANDRAJOG)**  
**JUDGE**

**(V.KAMESWAR RAO)**  
**JUDGE**

**MAY 02, 2013**

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