

Court No. - 9

Case :- CONTEMPT APPLICATION (CIVIL) No. - 1506 of 2020

Applicant :- Yogendra Singh And 2 Others

Opposite Party :- Sri Sudhash Chandra, Inspector General, Central Reserve Police Force And Another

Counsel for Applicant :- Siddharth Khare

Counsel for Opposite Party :- Arvind Kumar Goswami

Hon'ble Rohit Ranjan Agarwal,J.

The writ Court on 26.10.2018 while disposing of Writ-A No.9551 of 2002 passed the following order :

"1. Heard Sri Siddharth Khare, learned counsel for petitioners and Sri Gyan Narayan Kanaujiya, Advocate for respondents.

2. Petitioners were convicted by Chief Judicial Magistrate 10(n) and (o) of Central Reserve Police Force Act, 1949 (hereinafter referred to as "Act, 1949") and sentenced to undergo simple imprisonment of two months vide judgment dated 08.04.1999. Merely on the basis of said conviction and sentence Commandant 8th Bn. Central Reserve Police Force, New Delhi passed order of punishment dated 21.04.1999 dismissing petitioners from service and their appeal and revision were also dismissed vide orders dated 13.10.2000 and 09.03.2001 passed by Respondents-3 and 2 respectively.

3. It is contended that Rule 27 of Central Reserve Police Force Rules, 1955 (hereinafter referred to as "Rules, 1955") a member of force could have been punished without holding any departmental inquiry if he has been convicted on a criminal charge by consideration of his conduct led to conviction.

4. Rule 27(cc) of Rules, 1955 reads as under:

"27 (cc) Notwithstanding anything contained in this rules--

(i) where any penalty is imposed on a member of the Force on the ground of conduct which has led to his conviction on a criminal charge; or

(ii) where the authority competent to impose the penalty is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an enquiry in the manner provided in these rules; or

(iii) where the special Director-General or Additional Director-General heading zone or Director-General is satisfied that in the interest of security of the State, it is not expedient to hold any enquiry in the manner provided in these rules, the authority competent to impose the penalty may consider the circumstances of the case and make such orders thereon as it deems fit."

5. Aforesaid provision is consistent with Article 311(2) proviso of the Constitution

which also permits punishment upon a holder of civil post without holding regular departmental inquiry on the basis of conviction provided the disciplinary authority has considered his conduct led to conviction. In the present case contention is that "conduct led to conviction" has not been examined at all and in a mechanical manner order of punishment has been imposed.

6. In a case where such consideration has not been made the order passed by the appointment authority imposing maximum punishment of dismissal without considering the conduct led to conviction could be illegal and improper and, therefore, the order would be liable to be set aside. Reliance is placed on this Court's decisions in *Brahma Dev Vs. Life Insurance Corporation of India and others*, 2006(3) ALJ, 710, *Shyam Narain Shukla Vs. State of U.P.*, 1988 (6) LCD 530, *Sadanand Mishra Vs. State of U.P.*, 1993 LCD 70 and the Apex Court's decision in *Union of India Vs. Tulsi Ram Patel*, AIR 1985 SC 1416 as also a Single Judge judgement of this Court in Civil Misc. Writ Petition No. 30227 of 2007, *Shiv Kumar Singh Vs. State of U.P. and others*, decided on 24.10.2008.

7. From a bare perusal of the impugned order of dismissal it is evident that the punishing authority merely by referring to the conviction of the petitioners in criminal case and the punishment imposed therein has dismissed them from service and there is nothing which shows even a whisper of consideration on the part of the punishing authority that he has considered the "conduct" of the employees concerned which has "led to their conviction" in a criminal charge so as to warrant punishment of dismissal.

8. Learned counsel appearing for respondents could not dispute the above exposition of law and also could not defend the impugned order by pointing out that such consideration has been made by the punishing authority. He virtually could not dispute that the matter is squarely covered by the aforesaid judgements of this Court as well as the Apex Court.

9. In view of the above discussion and for the reasons contained in *Brahma Dev (supra)*, *Shyam Narain Shukla (supra)*, *Sadanand Mishra (supra)*, *Tulsi Ram Patel (supra)* and *Shiv Kumar Singh (supra)* this writ petition is allowed. The impugned orders dated 21.04.1999; 13.10.2000 and 09.03.2001 are hereby quashed. The petitioners shall be entitled to all consequential benefits.

10. However, the respondent-punishing authority shall be at liberty to pass a fresh order against the petitioners in accordance with law."

Sri Arvind Kumar Goswami, learned counsel appearing for opposite party states that pursuant to the judgment of writ Court, the applicants were reinstated and paid the consequential benefit. He has placed before the Court the order passed by opposite party on 13.11.2023 granting promotion to the applicants w.e.f. 26.02.2013.

As the applicants have been granted the benefit, as claimed by them, the contempt application has rendered infructuous and stands **dismissed**.

Contempt notice stands discharged.

However, in case any claim of the applicants remains, they have remedy of approaching the appropriate forum, if so advised.

Order Date :- 23.11.2023

Kushal