

GAHC010186312014



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4133/2014

RITURAJ SOLANKI
S/O SRI RAMESH SOLANKI, PERMANENT R/O 8/474 JAMALPURA,
BEAWAR, DIST- AJMER, RAJASTHAN, PIN- 305901

VERSUS

THE UNION OF INDIA and 7 ORS
REP. BY THE HON'BLE SECY. TO THE MINISTRY OF HOME AFFAIRS, NEW
DELHI

2:THE DIRECTOR GENERAL
CENTRAL INDUSTRIAL SECURITY FORCE
CGO COMPLEX NEW DELHI

3:THE INSPECTOR GENERAL REVIEWING AUTHORITY
CISF/NES PREMISES NO.553 EAST KOLKATA TOWNSHIP
KASBA KOLKATA-107

4:THE DY. INSPECTOR GENERAL APPELLATE AUTHORITY
CISF/NES PREMISES NO.553 EAST KOLKATA TOWNSHIP
KASBA KOLKATA-107

5:THE GROUP COMMANDANT DISCIPLINARY AUTHORITY
CISF LOKHRA GUWAHATI KAMRUP METRO ASSAM

6:THE ASSTT. COMMANDANT ENQUIRY OFFICER
CISF UNIT IOC GHY-20 NOONMATI KAMRUP METRO ASSAM

7:THE ASSTT. COMMANDANT/ADM CISF ASG BIA BENGALURU

8:THE DY. COMMANDANT CISF UNIT IOC GHY-20 NOONMATI
KAMRUP METRO ASSA

Advocate for the Petitioner : MR.D CHAKRABARTY
Advocate for the Respondent : C.G.C.

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

Date of hearing : 18.04.2024

Date of Judgment : 18.04.2024

Judgment & order(Oral)

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Heard Mr. D. Chakraborty, learned counsel, appearing on behalf of the petitioner. Also heard Mr. K. K. Parasar, learned CGC, appearing on behalf of respondents No. 2 to 8.

2. The challenge as presented in the present proceeding pertains to an order, dated 22.12.2012, issued by the disciplinary authority imposing upon the petitioner the penalty of reduction of his pay to the minimum stage from Rs. 14,390/- + 4200/-(Grade Pay) to Rs. 9,300/- + 4200/-(Grade Pay), for a period of one year along with the stipulation that the petitioner shall not earn increment during the period of reduction and that on expiry of the period; the reduction so effected, will have the effect of postponing his future increment in pay. The petitioner has also challenged the orders passed by the appellate authority as well as the reviewing authority upholding the said penalty so imposed upon the petitioner.

3. The facts requisite for adjudication of the issue as arising in the present proceeding, is noticed hereinbelow:

The petitioner was initially recruited as a Sub-Inspector in the Central Industrial Security Force(CISF) in the month of November, 2003. While serving

at Bangalore, the petitioner was issued with an order, dated 16.05.2011, by which, he was transferred to IOC Ltd., Guwahati, in the same capacity. Upon availing the joining time, the petitioner had reported at his transferred place of posting at Guwahati on 01.06.2011. While proceeding on the said transfer, the petitioner had dispatched his household goods from Bangalore to Guwahati through one Sandeep Road Carriers of Bangalore, for which, he has stated to have incurred an expense of Rs. 98,700/- as transportation charges.

It is further projected in the writ petition that the household goods as dispatched by the petitioner from Bangalore to Guwahati which is also stated to include his Nano Car had reached at Guwahati on 02.06.2011, However, on account of the fact that he was yet to be allotted a Government Quarter and also on account of the fact that he was required to move for a training course in the evening of 03.06.2011, the petitioner arranged for keeping his household goods in a Godown of a local transporter at Guwahati till he returned from the training required to be undergone by him.

It is also projected in the writ petition that the local transporter at Guwahati while agreeing to keep the household goods of the petitioner under his custody, however, refused to keep the petitioner's Nano Car. In view of the above position, the petitioner arrived at a decision to transport the said Car at Jodhpur, Rajasthan, wherein, his wife was staying at the relevant point of time. The petitioner, accordingly, contends that he had transported the Nano Car along with a Dressing Table and a bed to Jodhpur, Rajasthan.

It is further contended that the petitioner had taken his motorcycle from the local transporter and had kept in the Sub-Officers' Hostel before proceeding for the said training.

It is also projected in the writ petition that the petitioner had returned from his training on 05.07.2011, and resumed his service and he was thereafter, allotted a Government Quarter. The petitioner brought certain household goods kept with the transporter at Guwahati to his Quarter and on 11.07.2011, it is contended that his wife and children had joined him at Guwahati. The petitioner, thereafter, submitted his TA Bill on 01.09.2011, and the said Bill was so endorsed by the Deputy Commandant, Central Industrial Security Force (CISF) Unit, IOC Ltd., Guwahati.

In the said TA Bill, the petitioner after providing the break-ups of the household goods involved; had claimed an amount of Rs. 98,700/- as transportation charges.

It is projected in the writ petition that a doubt having arisen with the claim as made by the petitioner in his TA Bill on 01.09.2011; certain inquiry was made in the matter by the respondent authorities.

The petitioner, in the course of the said inquiry, was also required to submit requisite documents establishing the veracity of the TA Bill as submitted by him.

It is contended by the petitioner that the respondent authorities have also

conducted a discreet inquiry in the matter to ascertain as to whether the Nano Car was also transported from Bangalore to Guwahati as claimed by him in the TA Bill as submitted in the matter.

Eventually, the respondent authorities constituted a Board of Officers for carrying-out a search in the house of the petitioner, however, the said search could not be conducted as the petitioner at the relevant point of time, was not available in his house and a report in the matter was submitted by the Board of Officers on 01.05.2012.

Basing on the above developments; the petitioner was issued with a Memorandum, dated 29.06.2012, instituting against him a Disciplinary Proceeding basing on the TA bill as claimed by him on the ground that the same was not so done in a *bona fide* manner and the petitioner was required to submit his defence in the matter. It may be mentioned that the petitioner was alleged to have submitted a forged TA bill in the matter vide the allegations levelled against him in the said Memorandum.

The petitioner, accordingly, submitted his written statement in the matter. The contentions as made in the written statement as submitted by the petitioner in the matter not having been found to be satisfactory, the competent authority proceeded to direct for an inquiry into the allegations so levelled against him vide Memorandum, dated 29.06.2012. Accordingly, a preliminary hearing in the matter was fixed on 27.07.2012. The petitioner participated in the said inquiry and on conclusion thereof; the Inquiry Officer submitted his report

in the matter and a copy of which was also furnished to the petitioner. Thereafter, the disciplinary authority on considering the matter and upon agreeing with the findings as recorded by the Inquiry Officer in the inquiry report; proceeded to impose upon the petitioner a penalty of reduction of his pay to the minimum stage of the pay scale for a period of one year with further stipulation that during the period of reduction, he would not be entitled to receive increments and the reduction would also have the effect of postponing his future increments of pay.

The petitioner being aggrieved, submitted an appeal in the matter, vide his appeal memo, dated 30.01.2013. The appellate authority, on consideration of the contentions made by the petitioner in the appeal, by a detailed order, proceeded to reject the said appeal as preferred by the petitioner, upholding the penalty as imposed upon him. Thereafter, the petitioner filed a petition before the competent authority for reviewing of the penalty as imposed upon him vide his application, dated 11.08.2013. The said application was treated as a revision petition and the revisionary authority vide order, dated 10.01.2014, after an elaborate discussion of the contentions raised by the petitioner in his revision petition; proceeded to reject the same thereby upholding the penalty so imposed upon him. Being aggrieved, the petitioner has instituted the present proceeding.

4. Mr. Chakrabarty, learned counsel for the petitioner, has reiterated the facts as noticed hereinabove and has contended that the requisite materials for arriving at a conclusion with the claim as made by the petitioner in his TA bill, were provided by the petitioner in the matter. However, for reasons unknown,

the authorities had proceeded to raise a doubt with regard to the same and in a perfunctory manner; had conducted inquiries thereon and on coming to a conclusion that the petitioner has not transported his Nano Car along with the household goods so transported from Bangalore to Guwahati; proceeded to conclude that the petitioner by submitting the said TA bill, has committed a misconduct in the matter and accordingly, the Memorandum of Charge, dated 29.06.2012, was so issued against him. The statement of articles framed against the petitioner under article of charge No. 1, reads as under:

“ARTICLE OF CHARGE –I

“An act highly prejudicial to good order and discipline of the force in that CISF No. 033170112 SI/Exe Ritu Raj Solanki of CISF Unit IOC Guwahati with malafide and getting wrongful gain submitted forged bill amounting to Rs. 98,700/- (Rupees ninety eight thousand seven hundred)only towards transportation of his personal effects from Bengaluru to Guwahati through ‘SANDEEP ROAD CARRIERS’, Sri Raghavendra Complex, 1st Main Road, Kalasipalyam New Extn., Bangalore -56002 on his regular transfer from CISF Unit, BIA Bengaluru to CISF Unit, IOC Guwahati. The aforesaid act of No. 033170112 SI/Exe Ritu Raj Solanki amounts to gross misconduct, wrongful personal gain in a fraudulent manner and unbecoming of a good member of a disciplined armed Force of the Union like CISF. Hence, the charge.”

5. The said articles of charge was explained in detail in the statement of imputation as per the Annexure 2 to the said Memo of Charge, dated 29.06.2012.

6. A perusal of the said article of charge along with the statement of imputation of misconduct in support of the said charge as provided in the Annexure 2 to the said Memo of Charge, dated 29.06.2012, would reveal that the misconduct as alleged against the petitioner, pertains to the submission of a TA bill submitted by him on 01.09.2011, claiming an amount of Rs. 98,700/- towards transportation charges of his household goods from Bangalore to Guwahati through one Sandeep Road Carriers. It is further alleged against the

petitioner that the documents of the said Carriers as produced by the petitioner in the inquiry were not found to be authentic and it was revealed that the petitioner had transported his household goods from Bangalore to Guwahati through the said Carriers. However, the petitioner failed to bring on record the challans with the Stamps of Superintendent of Taxes as per the endorsements made at the Borders of the States through which the said consignment had moved. Further, it was alleged that the manner in which the petitioner had made the payment of Rs. 98,700/- which he had contended to have been made from his own sources, was also held to have not been established by the petitioner. It was further alleged that the preliminary inquiry conducted against the petitioner, had brought on record the fact that the neighbours of the petitioner had neither seen any Truck transporting the purported household goods of the petitioner to his quarter nor was the Nano Car seen to have been kept near his Quarter. Accordingly, it was concluded that there was no concrete evidence regarding transportation of his household goods through any transporter. Accordingly, the petitioner was charged of gross misconduct and trying to make wrongful personal gain in a fraudulent manner which was held to be unbecoming of a good member of a disciplined armed force of the Union like the Central Industrial Security Force(CISF).

7. The petitioner submitted his detailed written statement in the matter against the allegations so levelled against him vide the memorandum of charge, dated 29.06.2012, and had denied the same. Being not satisfied, an inquiry was directed to be conducted in the matter and the petitioner also participated therein. Basing on the materials coming on record in the inquiry and after the inquiry report was so forwarded to the petitioner, herein, the disciplinary

authority on receipt of the representation as submitted by the petitioner against the inquiry report; proceeded to consider the materials coming on record in the inquiry as well as the said representation preferred by the petitioner against the inquiry report and vide order, dated 22.12.2012, proceeded to impose upon the petitioner, the following penalty:

“The pay of No. 033170112 SI/Exe Ritu Raj Solanki reduced to the minimum stage from Rs. 14,390/- + 4,200/-(Grade Pay) to Rs. 9,300/- + 4,200/-(Grade Pay) for a period of 01(two) years with immediate effect. It is further directed that No. 033170112 SI/Exe Ritu Raj Solanki will not earn increment of pay during the reduction and that on expiry of this period, reduction will have the effect of postponing his future increment of pay.”

8. The disciplinary authority in the order, dated 22.12.2012, basing on the materials coming on record in the inquiry as well as the contentions as raised by the petitioner in the matter and thereafter, upon agreeing with the findings so arrived at by the Inquiry Officer in his report; proceeded to conclude that the misconduct alleged against the petitioner was established and accordingly, he was entitled to be imposed with an appropriate penalty and accordingly, on consideration of the matter, the above-noted penalty was so imposed upon the petitioner.

9. It is to be noted that the disciplinary authority had considered each and every contention as raised by the petitioner in the matter and thereafter, had concluded that from the documents as submitted by the petitioner in the matter pertaining to the transportation of the household goods by him, it was revealed that there was no mention of any Car being so transported along with the household goods from Bangalore to Guwahati. It was further concluded that the

Car, in question, cannot be included within the term "household goods" and accordingly, if such car was so being transported, it would have been shown separately in the matter.

10. It was also revealed that the materials coming on record that the petitioner had not brought the said Car to Guwahati and thereafter, proceeded to arrive at the above-noted conclusions in the matter. The appeal as preferred by the petitioner before the appellate authority was also considered by the said authority and the same was disposed of vide order, dated 15.06.2013, after having made a detailed examination of the contentions so raised by the petitioner, herein. Likewise; the revisionary authority also disposed of the said revision petition as filed in the matter by the petitioner vide order, dated 10.01.2014, again after having made a detailed examination of the contentions made by the petitioner in the matter and on rejecting the same.

11. The petitioner in the writ petition has not alleged any lacunae in the holding of the inquiry against him and the petitioner had only prayed that the household goods that were so transported by him on his transfer from Bangalore to Guwahati also included his Nano Car. The petitioner in his written statement had laid out a list of items that were so transported from Bangalore to Guwahati and at serial No. 1 & 2, thereof; the items included were a Car and motorcycle without further description of the same.

12. A perusal of the materials brought on record including the documents as furnished by the Carriers, in question, in the matter reveals that what was

transported by the petitioner were "household goods". The certificates as given by the transporter and available on the records of the present proceeding only indicates the transportation by it of the "household goods" without further description of the individual items so being transported.

13. The above being the position, it is to be noted that what the term "household goods" would mean. It is not disputed that the household goods would mean, goods or products used within the household. The said items would be tangible and movable personal property placed in the rooms of a house.

14. A car cannot be brought under the meaning of "household goods" in-as-much as the same although being a personal property, would not be placed inside a house for its use. The Black's Law Dictionary defines "household goods" as follows:

"Household goods" "goods that are used in connection with a home".

Further, the term "household goods" also means items belonging to the house and the family, domestic.

15. A conjoint reading of the said words, would bring to the forefront that "household goods" would mean the goods which are placed within the confines of the house and not any other personal property that the householder may so possess.

16. The car involved in the present proceeding, cannot be said to come with the meaning of the term “household goods” and the transporter having only certified of having carried in respect of the petitioner, his household goods; the same cannot be so inferred to have also included the said car of the petitioner.

17. Accordingly, there being no lacunae pointed out in the proceedings by the petitioner and the petitioner having been given due opportunity of hearing; the conclusions as arrived at in the matter by the Inquiry Officer, cannot be held to be one so arrived at without there being any material coming on record in the inquiry to support the same. The disciplinary authority on a detailed consideration of the materials coming on record in the inquiry, having agreed to the findings of the Inquiry Officer; this Court would not in the matter proceed to assume the role of an appellate authority and re-evaluate the evidence coming on record in the matter, for coming to a different conclusion.

18. This Court being satisfied with the manner in which the proceedings were so conducted against the petitioner and on finding that the conclusions reached by the disciplinary authority were so reached basing on materials available on record; the petitioner not having demonstrated in any manner that the said conclusions were perverse, this Court would not interfere with such conclusions arrived at in the matter by the disciplinary authority.

19. At this stage, this Court would like to take note of an averment in paragraph No. 11 of the affidavit-in-opposition filed by the respondents No. 2 to 8 wherein it was contended that the Nano Car, in question, was purchased by

the petitioner at Jodhpur, Rajasthan, after obtaining requisite permission from the departmental authorities for such purchase. It is contended by the respondents that there is no record available in the Department to demonstrate that after the purchase of the said car at Jodhpur, Rajasthan, the petitioner had transported the same to Bangalore and accordingly, in the absence of a description of the said car in the certificates/consignments notes produced in the matter from the transporter of such car being transported from Bangalore to Guwahati, the said assertion of the petitioner that he had transported the car, in question, from Bangalore to Guwahati, raise a serious doubt in the matter.

20. Basing on the said contentions, it was concluded that the petitioner had never brought the said car to Bangalore and as such, there was no question of it being transported from Bangalore to Guwahati. Although the said contention was not a part of the materials coming on record in the inquiry, however, the said assertion as made in the affidavit-in-opposition filed by the respondents No. 2 to 8, is a vital factor and the same having been so raised in the proceedings before this Court; this Court has noticed the same. However, what is interesting to note is that the petitioner by way of filing an affidavit-in-reply to the affidavit-in-opposition filed by the respondents No. 2 to 8, has not disputed the said position and accordingly, it has to be held that the same has been held to have been admitted to also by the petitioner, herein.

21. Accordingly, in view of the conclusions reached hereinabove by this Court and the fact that the inquiry was so conducted against the petitioner in the manner required and the disciplinary authority after detailed examination of the matter had arrived at the conclusions leading to the imposition of the said

penalty upon the petitioner; this Court is of the considered view that such imposition of penalty in the matter upon the petitioner, does not call for any interference by this Court in the present proceeding.

22. In that view of the matter, the writ petition is held to be devoid of any merit and the same accordingly stands dismissed. However, there shall be no order as to costs.

JUDGE

Comparing Assistant