

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

% *Judgment Reserved on: March 11, 2015*
Judgment Delivered on: March 16, 2015

+ **W.P.(C) 1162/2014**

SUKHVIR SINGHPetitioner
Represented by: Mr.Ravi Prakash, Advocate with
Ms.Avni Singh & Mr.Ashish
Verma, Advocates

versus

UOI & ORS.Respondents
Represented by: Mr.Siddharth Khatana, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J.

1. The writ petitioner was a Constable (Driver) with the Central Reserved Police Force and was attached with 65th battalion of the CRPF as of April 2005. A company of 122nd battalion had to be shifted from Channi in Jammu district to Srinagar. On April 28, 2005 the petitioner was detailed as a driver to drive a heavy duty vehicle No.DNG 0018 to transport the personnel of the company of the 122nd battalion. He was found drunk. The company of the 122nd battalion could not proceed further and had to stay at Jammu Tavi for two days and for which the CRPF authorities had to incur expenditure for the transit accommodation required to be provided to the personnel of the company.

2. A charge memo was served upon the petitioner alleging vide charge No.1 that while on active duty he consumed alcohol which was a serious offence and vide charge No.2 that due to he being unable to drive the vehicle, the personnel of the company had to unnecessarily remained at Jammu for two days.

3. Inquiry Officer was appointed who submitted a report, and following the procedure prescribed by law i.e. supplying the report of the Inquiry Officer for petitioner's response and considering the same, a penalty of dismissal from service was inflicted upon the petitioner by the disciplinary authority on October 11, 2005. The petitioner preferred an appeal which was rejected by the appellate authority on March 28, 2006. Revision preferred there against was rejected by the revisional authority on September 25, 2006.

4. The petitioner sat quite and did not challenge either the indictment by the Inquiry Officer in the form of the report of inquiry nor did he challenge the order levying penalty or the order rejecting the appeal or the order rejecting the revision.

5. After a lull of seven years, the petitioner preferred a mercy petition on June 12, 2013 which has been turned down by the competent authority on December 13, 2013.

6. Instant writ petition lays a challenge to the order dated December 13, 2013.

7. The only contention raised at the hearing of the writ petition was that the penalty imposed is disproportionate keeping in view that for similar offence of being found drunk while on duty lesser penalty has been inflicted upon other personnel of CRPF.

8. Relying upon the order dated October 09, 2012 imposing penalty on Head Constable (GD) Anil Kumar it was urged that Anil Kumar was imposed the penalty of compulsory retirement for an offence of consuming alcohol while performing duty. With reference to order dated June 08, 2013, for being found drunk while on duty, penalty levied on HC Subhash Chandra was one of stoppage of increments for two years without cumulative effect. Apart from these orders instances of Ct.Shenoy and Ct.G.D.Rohtash were cited to bring home the point that penalties levied on said persons were not one of dismissal from service.

9. During arguments reliance was placed upon two unreported decisions of this Court. The first was dated July 8, 2011 deciding WP(C) 5233/1997 Lal Chand vs. UOI. The second is the decision dated July 11, 2011 deciding WP(C) 2145/1998 Ashok vs. DG, BSF & Ors.

10. In the two decisions a Division Bench of this Court, of which one of us : Pradeep Nandrajog, J. was a Member of, noted that life for enrolled persons in Central Para Military Force is harsh. The enrolled persons in Central Para Military Forces i.e. constables and head constables come from rural backgrounds. Issues concerning domestic problems or stress of job create tension. They are unable to handle these pressures and consumed a peg or two to drown their sorrow and grief. It was highlighted that mitigating circumstances in the form of service rendered and nature of service should be considered while inflicting punishment on these village beaus.

11. Each case and each indictment has a story of its own and no wrong can be an exemplar for the other on the question of the penalty to be levied. A person found drunk in the unit lines, while not on active duty,

would obviously be committing a wrong which is of a lesser magnitude compared to a person who consumed alcohol while on active duty. Even with respect to two persons on active duty, where one has to drive a motorcycle to dispatch a docket, if drunk, would not be comparable with a driver who has to drive a heavy duty vehicle and transport force personnel. Further, even between two drivers who have to transport personnel in heavy duty vehicle, the drunkenness of one who has to drive a vehicle in the plains would be of a different shade than the drunkenness of one who has to drive in the hills.

12. It is settled law that past behavior has also to be kept in mind.

13. The service record of the petitioner which was produced for our perusal would record that having joined service in the year 1992 as a Constable (Driver), the petitioner started showing tendency of heavy drinking. This was noted in his ACRs for the year 1998, 1999, 2000, 2000 as also 2003.

14. The petition is dismissed but without any order as to costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

MARCH 16, 2015
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