

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 23rd July, 2021

+ W.P.(C) 6945/2021

KARAMPAL Petitioner

Through: Mr. Raj Singh, Advocate.

Versus

UNION OF INDIA AND ORS. Respondents

Through: Mr. Rishabh Sahu, CGSr.C with
Mr. Sameer Sinha, GP for UOI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

[VIA VIDEO CONFERENCING]

AMIT BANSAL, J.

1. The petitioner was appointed as a Sub-Inspector/Executive in the respondents Central Industrial Security Force (CISF) in 2014. For the period from 2014 to 2018, the petitioner was posted in the CISF Unit of ONGC at Hazira, Gujarat. On 23rd May, 2018, the petitioner was issued a charge memo under Rule 36 of the CISF Rules, 2001 with the following charge:

“ARTICLE OF CHARGE-I

"No.140202577 SI/Exe Karampal of CISF Unit ONGC Hazira was deployed as Shift I/C at Main Gate in 'B' shift duty on 09.05.18. During his duty hours, at about 1710 - 1716 hrs., few

villagers consisting of approximately 10 to 15 personnel including female members blocked the car of Shri Rajiv Tiwari, Production Manager, ONGC, Hazira on NH-53 as he went outside from ONGC Plant through the Main Gate. The production manager was manhandled by the protesters. The incident happened near about 50 mtrs away from the main gate and it is on the vicinity of Shift I/C Main Gate. But, he failed to reach the spot immediately on seeing the incident to protect the employee. This act on the part of No.140202577 SI/Exe Karampal amounts to gross negligence, carelessness, indiscipline, misconduct and cowardice, which is unbecoming of a member of an Armed Force of the Union like CISF".

2. The departmental inquiry conducted against the petitioner, in its report dated 7th August, 2018 concluded that the charge levelled against the petitioner stood proved. On 12th September, 2018, the petitioner was awarded penalty of 'reduction of pay by one stage in time scale of pay matrix level-6 for a period of one year'. It was further directed that the petitioner will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will have the affect of postponing of his future increments of pay. The petitioner preferred an appeal against the order of the Disciplinary Authority, which was dismissed by the Appellate Authority vide order dated 17th October, 2019. Further, the Revisionary Authority rejected the Revision Petition filed by the petitioner vide order dated 19th September, 2019.

3. The present writ petition has been filed by the petitioner impugning the order dated 19th September, 2019 passed by the Revisionary Authority, rejecting the Revision Petition filed by the petitioner.

4. The petitioner has contended that (i) the incident leading up to the issuance of charge memo against the petitioner occurred not because of any act or omission on part of the petitioner, but because the Senior Officer of CISF posted at the ONGC Unit did not pass any orders to prevent the unlawful assembly; (ii) it was the responsibility of the Senior Officer, being a Gazetted officer of CISF, to prevent the unlawful assembly and the post of the petitioner was not vested with powers to disperse such unlawful assembly; (iii) the authorities below have failed to appreciate the statements given by the various witnesses including the cross-examination conducted by the petitioner and therefore, have wrongly held the petitioner guilty of the charge; and, (iv) the cross-examination of Shri Rajiv Tiwari, DGM (Production), ONGC, who was PW-6 in the inquiry conducted, clearly shows that it was the petitioner who reached the spot to rescue PW-6 from the crowd.

5. *Per contra*, Mr. Rishabh Sahu, counsel appearing on advance notice on behalf of the respondents has submitted that the authorities below have passed well-reasoned and detailed orders holding the petitioner guilty of the charge levelled against him. He has further submitted that the Disciplinary Authority on the basis of the CCTV footage has rightly concluded that it was not the petitioner, but some other CISF personnel deployed at the ONGC Unit who acted proactively and rescued PW-6 from the crowd.

6. It is settled law that in matters of departmental disciplinary proceedings against an employee, scope of interference under Article 226 of the Constitution of India is very limited. It is only in those cases where the principles of natural justice have not been followed and the respondent has

acted in violation of the corresponding Rule or the punishment is disproportionate that Courts ought to exercise their powers of judicial review. In this regard reference may be made to ***B.C. Chaturvedi Vs. Union of India & Ors.*** (1995) 6 SCC 749, ***Govt. of A.P. & Ors. Vs. Mohd. Nasrullah Khan*** (2006) 2 SCC 373 and ***Deputy General Manager (Appellate Authority) & Ors. Vs. Ajai Kumar Srivastava*** (2021) 2 SCC 612.

7. Examining the facts of this case from the prism of the legal position as stated above, there are three concurrent findings of authorities below, against the petitioner. We have examined the orders passed by the Revisionary Authority, the Appellate Authority as well as the Disciplinary Authority. They all are speaking and well-reasoned orders, wherein all contentions raised by the petitioner have been duly considered. The petitioner has been provided with opportunity to cross-examine the witnesses presented by the department and all principles of natural justice have been followed in full. Reference may be made to findings of the Appellate Authority against the petitioner, which are set out below:

“05. The prime plea of the appellant in his petition is that it was not known to him whom the protesters were manhandling. Another plea is that immediately on getting the information regarding the attack on the person, he informed it to the Unit Commander and acted according to the directions of the Unit Commander. It is fact that the appellant was deployed for duty as shift in-charge and the incident was taken place in his vicinity, but no CISF personnel reached the spot to protect the employee even though he requested for help by waving his hand. The appellant was deployed for duty for the safety and security of the men and material of the plant. Since an employee of the plant was manhandled in the vicinity of the appellant and CISF

personnel deployed under him, but they could not save him, there is severe negligence in duty from the part of the appellant. If the contention of the appellant is true that he did not know whom the mob were attacking, in security point of view, it is his failure to notice and get information about the purpose of the assembling of protesters with ill motive at a place very adjacent to his place of duty. The plea of the appellant that he informed the Unit Commander and acted according his directions also has no merit, as the incident was such a kind that it required immediate action. By not reaching the spot immediately on getting the information, the appellant wasted precious time to save the employee. Therefore, the appellant is guilty of the charges framed against him.

06. The charge framed against the appellant is grave in nature deserving severe punishment. The failure of the appellant to act according to the situation tarnished the image of the Force in public and it defeated the purpose of his deployment. In his appeal, the appellant has not brought any vital point necessitating the intervention of the undersigned in the order passed by the disciplinary authority. The punishment imposed by the disciplinary authority commensurate with gravity of offence proved against the appellant. Therefore, the appeal dated 17.10.2018 submitted by SI/Exe Karam Pal is hereby rejected being devoid of merit.”

8. The Revisionary Authority, as per the impugned order, while taking note of the pleas raised by the petitioner, has affirmed the findings of the Disciplinary Authority as well as the Appellate Authority.

9. Based on the elaborate findings of the departmental inquiry, all three authorities have come to the conclusion that the petitioner did not take appropriate steps to prevent the aforesaid incident and therefore was guilty of gross negligence, misconduct, indiscipline and cowardice. Even the punishment awarded to the petitioner in the facts and circumstances of the

present case, is not unconscionable that requires interference by this Court. All the contentions raised by the counsel for the petitioner before us are based on appreciation/re-appreciation of evidence, which is not permissible in exercise of writ jurisdiction under Article 226 of the Constitution of India. The Court while exercising its powers of judicial review is concerned with the decision making process and not the decision itself. Reference in this regard may be made to *B.C. Chaturvedi* supra.

10. We see no ground for interference. Dismissed.

AMIT BANSAL, J.

RAJIV SAHAI ENDLAW, J.

JULY 23, 2021

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