

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1669 of 2018

In
Civil Writ Jurisdiction Case No.8918 of 2017

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Krishan Singh, son of Late Kantoo Singh, Resident of Village-Mirzapur, P.S.-
Budgaon, District-Saharanpur (UP).

... .. Appellant/s

Versus

1. The Union of India through the Secretary, Ministry of Home, New Delhi.
2. The Director General of Police Central Reserve Police Force, New Delhi.
3. The Special Director General of Police, Central Zone CRPF, Kolkata (W.B.).
4. The Inspector General of Police Force, Bihar Sector Central Reserve Police Force Patna, Bihar.
5. The Deputy Inspector General of Police, Central Reserve Police Force, Muzaffarpur.
6. The Deputy Inspector General of Police, Group Centre Central Reserve Police Force, Range Muzaffarpur.
7. The Commandant, 131, Batalian, Central Reserve Police Force.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ram Prawesh Kumar, Advocate
For the UOI	:	Mr. A.K. Pandey, SCGC
		Mr. R.K. Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 22-08-2022

Heard I.A. No. 01 of 2019 for condonation of delay of
84 days in presenting LPA.

02. For the reasons stated in the application and affidavit
delay of 84 days in filing LPA is condoned. Accordingly, I.A. No.
01 of 2019 stands allowed.



03. Appellant-Krishan Singh was subjected to disciplinary proceedings on the complaint made by one Shri Gambhir Singh, OCF Coy at 131 Batalion, Central Reserve Police Force (CRPF). The gist of the complaint is that appellant has uttered an abusive language when appellant and complainant Gambhir Singh and others were on duty. The complainant submitted a complaint to the Commandant, 131 Batalion, CRPF. Based on the aforesaid complaint disciplinary authority issued a charge memo on 06.01.2016 and appellant was subjected to disciplinary proceedings. The inquiring officer submitted report on 05.06.2016, thereafter, the disciplinary authority issued a second show cause notice on 17.06.2016. Further, disciplinary authority proceeded to impose penalty of withholding of one increment for one year with cumulative effect.

04. Feeling aggrieved and dissatisfied with the order of the disciplinary authority appellant preferred appeal before appellate authority on 20.08.2016 and it was rejected on 09.02.2017. The appellant has also exhausted remedy of revision and it was rejected on 14.06.2017. Thus, feeling aggrieved by the orders of the disciplinary, appellate and revisional authority he had preferred CWJC No. 8918 of 2017 it was dismissed on 03.08.2018, hence, the present LPA.



05. Learned counsel for the appellant vehemently submitted that charge is not specific. Further, copy of the deposition was not made available to him. In support of non-specific charge he has cited Hon'ble Apex Court decision in the case of **Anant R. Kulkarni v. Y.P. Education Society and Ors.** reported in **AIR 2013 SC 2098**. In the light of the principle laid down by the Hon'ble Apex Court decision impugned proceedings are liable to be set aside.

06. *Per contra*, learned counsel for the respondent resisted the aforesaid contention. He submitted that copy of the complaint dated 26.05.2015 was made available to the appellant along with the charge memo dated 06.01.2016. In other words, copy of the complaint is part and parcel of charge memo. Complaint is crystal clear what is the abusive words uttered by the appellant against the complainant, while discharging the duties of the post held by the appellant and his superior. Therefore, the contention of the appellant that charge is vague cannot be accepted. It is further submitted that the cited decision would assist the respondent instead of appellant for the reasons that in para 10 of the aforesaid decision it is crystal clear if the charge memo supported by material information reveals the exact charge that suffice. It is further submitted that having regard to the serious allegations levelled



against the appellant that he has abused his superior in a filthy language. The disciplinary authority has taken a lenient view in imposing lesser punishment than the imposition of major penalty of dismissal/removal/compulsory retirement.

07. Heard learned counsels for the respective parties.

08. Undisputed facts are that one Shri Gambhir Singh, Assistant Commandant, CRPF, 131 Batalion while discharging duties along with the appellant, appellant had uttered abusive language to his superior-Assistant Commandant. In this regard, a complaint was lodged by Shri Gambhir Singh on 26.05.2015 with the Commandant. Based on such complaint appellant was subjected to disciplinary proceedings in framing of article of charges on 06.01.2016 and it was concluded in imposition of penalty of withholding of one increment for one year with cumulative effect and it was subject matter of appeal and revision. In both the proceedings appellant had suffered orders, thus, he has preferred writ petition in which also he suffered, hence, the present appeal.

09. The appellant has raised two grounds namely the alleged charge is not specific. In other words, whatever the alleged filthy language uttered by him against the complainant is not forthcoming in the article of charge. In support of the aforesaid con-



tention he relied on Hon'ble Apex Court decision in **Anant R.**

Kulkarni (supra). Para 10 reads as under:-

“10. Where the charge-sheet is accompanied by the statement of facts and the allegations are not specific in the charge-sheet, but are crystal clear from the statement of facts, in such a situation, as both constitute the same document, it cannot be held that as the charges were not specific, definite and clear, the enquiry stood vitiated. Thus, nowhere should a delinquent be served a charge-sheet, without providing to him, a clear, specific and definite description of the charge against him. When statement of allegations are not served with the charge-sheet, the enquiry stands vitiated, as having been conducted in violation of the principles of natural justice. The evidence adduced should not be perfunctory; even if the delinquent does not take the defence of, or make a protest that the charges are vague, that does not save the enquiry from being vitiated, for the reason that there must be fair play in action, particularly in respect of an order involving adverse or penal consequences. What is required to be examined is whether the delinquent knew the nature of accusation. The charges should be specific, definite and giving details of the incident which formed the basis of charges and no enquiry can be sustained on vague charges.

10. Reading of the aforesaid para, it is crystal clear from the alleged allegations that if it is not specific it could be verified



from the article of charge read with the materials like statement of imputation/list of documents. In the present case, no doubt charge is not specific and so also statement of imputation. However, copy of the complaint dated 26.05.2015 is one of the cited document which was made available to the appellant at the time of furnishing article of charges. Copy of the complaint reads as under:-

“To

*The Commandant,
131 Bn CRPF,
MH Stadium, Rajendra Nagar,
Patna (Bihar).
Sub:-Complaint Regarding Misconduct.*

R/Sir

With due respect and humble submission I undersigned want to state following file lines for your kind consideration please.

1. On dated 26 May 2015, I got information about Naxal presence in a house in vill Chirauta U/PS Belhar (Banka), I planned a RASO in above village involving the troops of F/131 and civil Police and informed DC Ops 131 Bn about the ops.

2. After briefing the troops we moved towards target village by two light vehicles and a BP Bunker as the Naxal were to stay there for a short period. After going about 6 km, I noticed that speed of BP Bunker was too slow so I told coy 2ic Insp Shivtaj to send four Jawans in my vehicle to strengthen my QAT and decided to raid the place with two light vehicles and instructed Insp Shivtaj who was the commander of BP Bunker to follow us and reach the target area as soon as possible.



3. Coy 2ic four persons to my vehicle which included ASI/GD Krishan Singh Pundhir. On reaching target house I ordered those four persons to cordon the house from back side u/c ASI/GD Kewal Singh. After whole search was completed I ordered coy 2ic on radio set to withdraw each and every party and make them mount the vehicles.

4. When we started moving back, after covering a distance of about 100m I came to know that the persons are not there and I immediately rushed towards the target area and found those four personnel. These were the same four personnel which I had included in my QAT to strengthen it.

5. I was inquiring to party comndr ASI/GD Kewal Singh that why he did not listen to radio set instructions about the withdrawal, he was about to answer but suddenly ASI/GD Krishan Singh came furiously and started misbehaving with me in front of QAT personnel, civil police and villagers. He said these words, **"TU KAHE KA COY COMMANDER HAI, TEREK COMMAND KARNA NAHIN AATA HAI."** I said to him "Mein party comndr se baat kar raha hu, aur jab appse puchha jay tab aap boliye" But he did not listen to radio set orders of withdrawal? Then he said **"TOONE HUMKO CORDON MEIN HE CHHOD DIYA."** I said why u did not listen to radio set orders of withdrawal? Then he said **"TOONE MUJHE SET LENE KE LIYE BOLA THA KYA?"** moreover I had clear instructions that each and every SO will take a radio set in every Ops whether he is a party comndr or not. Then I instructed him to mount the vehicle and not to create any scene here on proof of everyone and we will discuss about this in camp, then he said **'HAAN CHAL CAMP MEIN DEKHTA HOON TUJHE, SAMAJHATA KYA HAI TU APNE KO? MAIN DARTA NAHIN HOON KISI SE, CORDON MEIN CHHOD KE AA GAYA HUMKO, MERE GHANTE KA COMMANDER HAI TU.'**

6. In past also he has been behaving that time and against, Being an instructor in CRPF Acad-



emy in past I asked him to look after CHM duties for few days, He bluntly denied and said "saab ye sab kamm nahi hoga humse." One fine day when I did camp stand to, being a guard commndr he gave a false report about a sentry who has not present in the morcha during stand to and was sleeping in his bed, when asked, he said "Uski tabiyat kharab hai." But when I enquired into the matter I found tha sentry was drunk and guard commnder ASI/GD Krishan Singh was trying to hide the facts. I issued an Advisory to ASI/GD Krishan Singh for the same, then also he was saying 'SAAB APKO COMMAND KARNA NAHIN AATA HAI, AAPNE MUJHE GALAT SAJAA DIYA HAI.'

7. Sir I accept that there was a slight misunderstanding between me and coy 2ic that I though those four personnel have boarded BP Bunker and coy 2ic thought that they have boarded QAT light vehicle, moreover none of the tow ASIs in that party were having Radio set despite clear instructions which resulted in that, this party was left behind, but it certainly not give any individual any kind of right to behave like what ASI/GD Krishan Singh did.

8. ASI/GD Krishan Singh has presented a bad example in front of juniors by his act today, though his duty was to groom them, He has also presented a bad face of force in front of civil Police and villagers by misbehaving with superior office and acting like a hooligan, His act of misconduct was totally against the CRPF acts and rules and great traditions of the force.

9. Sir, in view of above, I request you to enquire into the matter and take suitable action against the individual to keep the discipline and sanctity of the force intact.

Thanking you.

Yours sincerely

*(Gambhir Singh) AC
OCF COY*



131 Bn CRPF

Dated 26.05.2015

Place: Belhar.”

11. Perusal of the aforesaid complaint it is crystal clear that whatever the words uttered by the appellant against his superior Gambhir Singh, OCF Coy, 131 Bn, CRPC has been reiterated in the complaint and it was made known to the Appellant herein, which suffice knowledge of alleged allegations.

12. In the light of the aforesaid Hon'ble Apex Court decision gist of the complaint could be taken into consideration for the purpose of finding out what are the words uttered by the appellant against his superior in order to draw an inference that what is the alleged charge. In other words doctrine of lifting of veil.

13. Learned counsel for the appellant further contended that copy of the deposition has not been made available to the appellant. It is evident from the record that appellant had received deposition copy while attesting his signature.

14. In the light of the these facts and circumstances, it is evident that disciplinary authority has taken a very lenient view while imposing penalty of withholding of one increment with cumulative effect for one year, having regard to serious misbehaviour with his immediate superior while using filthy language.



15. In the light of these facts and circumstances, the ap-
pellant has not made out case. Accordingly, the present Letters
Patent Appeal stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

