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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11695 of 2014

Karamjit Singh

...Petitioner

-Vs-

1.The Deputy Inspector General
Railway Protection Special Force,
Railway Board,
Ministry of Railways,
Government of India,
New Delhi.

2.The Senior Commandant,
12 Battalion,
Railway Protection Special Force,
Thakurali - 421 206,
Thane District,
State of Maharashtra.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for records relating to the order of termination from service passed against the petitioner by the 2nd respondent in File No.5BN/PRO-MAJ/D/HC-KJS/09/2012/2361 and confirmed in the Appeal filed by the petitioner by the first respondent in File No.2012/Sec (ABE)/ DAR/3/16 dated 03.09.2012 and quash the same and further direct the respondents to reinstate the petitioner into service with all benefits with retrospective effect.

For Petitioner : Mr.S.Sudarshan
for Mr.S.Subramanian

For Respondents : Mr.K.Ramana Moorthy
Central Government
Standing Counsel



ORDER

The order of removal from service and the appellate order passed by the first respondent are under challenge in the present writ petition.

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2. The writ petitioner was appointed as Constable in Railway Protection Special Force on 24.02.2004. The petitioner undergone Instructor course and thereafter started training various batches of trainees as outdoor instructor. The petitioner was deputed to impart pre-promotional training to the candidates empaneled for promotion as Assistant Sub-Inspector and was discharging his duties since early.

3. The petitioner was nominated and allotted to accompany the adhoc election company No. 47 to Tamil Nadu to provide security for the State Assembly Elections which took place during the year 2011. He was deputed to perform the strong room bandobast duties along with other staff members from 15.04.2011. On 13.05.2011 at about 4.30 hours he left with another Police for duty at Alagappa Engineering College where the counting for the Assembly Constitution of Tirupattur was going on. After completing his duty continuously for 24 hours, the petitioner returned back to the Government camp at 14.05.2011 and deposited pistol No.6 AR No.16251542+02 Magazines + 20 rounds along with all OK report.

4. At that point of time all other staff members left to their respective barracks after depositing their Arms. One Mr.Ankit Kumar alone came late for depositing his Arms and Ammunition. He had problems in removing magazine in his pistol and he sought help of the petitioner to do the same. The said Mr.Ankit Kumar handed over his pistol for petitioner for removing the magazine from the pistol. Even before that during his attempt to remove the magazine from the pistol the pistol got cocked and hammer got retained in the cock position. After removing the magazine from the pistol the petitioner kept the same on the table beside Sri Sube Singh, Head Constable who was there. Thereafter he went to drink some water after sometime the petitioner heard firing sound immediately turn back and saw Mr.Sri Sube Singh falling down and the said pistol was lying on the table. Mr.Ankit Kumar started shouting in fear and got panicked. At that time Mr.Dheeraj, Assistant Sub Inspector and the petitioner were present in the said room. On hearing the fire sound other staff members of the house also came to the spot Mr.Sube Singh was taken to Government hospital in police van and subsequently he was declared as dead.

5. A charge sheet was issued in proceeding dated 06.08.2011 and the charges against the writ petitioner are as under;



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"Head Constable Karamjit Singh, UIN-05SF0440206 of 'D' Coy, 5BN/RPSF/TPJ was nominated to accompany the election Coy.No.47 to Tamil Nadu for State Assembly Election under the Command of Shri Milap Chand, IPF, 9BN/RPSF/JUDW. On 13.05.2011, he along with other 08 Constables left to Strong Room No.185 for Guarding Duty under the Party Commander, ASI/Ram Lal. On 14.05.2011 at about 4.15 hours, while on duty party was depositing their Arms & Ammunition after completion of Strong Room duty, CT/Ankit Kumar of 9BN/RPSF/JUDW, allotted with Pistol bearing Butt No.08 and Arsenal No.016251536 found it difficult to remove the charged magazine from his Pistol. He asked for the Head Constable Karamjit Singh's help. On which, Head Constable Karamjit Singh, wrongly put his finger into the 'Ejection Slot' of the Pistol in hurry to remove the magazine of the Pistol which resulted in fire of bullet causing death of Head Constable/09SF0440189 Shri Sube Singh of 9B/RPSF/JUDW by hit of a bullet.

Head Constable Karamjit Singh, even after being an Outdoor Instructor and fully trained in the handling and operation of various Fire Arms, overconfidently put his finger in the Ejection Slot of the Pistol and tried to dislocate the Sheer of the Pistol which resulted in loading of bullets into the Pistol Chamber and got fired. In which, Head Constable/09SF0440189 Shri Sube Singh of 9BN/RPSF/JUDW sitting nearby, was hit to death. For which act of Head Constable Karamjit Singh is directly responsible for the cause of firing. Hence, he was charged for his negligent act, misconduct of breach of code of behaviour for member of the Force and for discreditable conduct, under Rule - 146.1, 146.2 (i), 146.4, 147(i)(ii)(xiv) of RPF Rules 1987."

6. The petitioner defended his case and the enquiry officer was appointed who in turn conducted an enquiry by affording an opportunity to the petitioner. The Enquiry Officer considered the facts and circumstances and the documents available on record and made a finding that the charges leveled against the petitioner was held proved. Accordingly, the disciplinary authority provided an opportunity to the petitioner to submit his objections on the enquiry report and on receipt of the objections, the final order was passed removing the writ petitioner from service. The appeal filed by the petitioner was also rejected. Thus, the petitioner constrained to move the present writ petition.

7. The learned counsel for the petitioner mainly contended



that it was an accident occurred and therefore the punishment of removal from service is excessive. The petitioner had not done anything intentionally, the entire incident appears to be rather accidental and the petitioner suffered the punishment in view of the fact that he assisted the other constable to remove the magazine from the pistol, during the course of the said attempt the accident occurred and thus a lenient view is to be taken considering the length of service rendered by the writ petitioner in Railway Protection Special Force.

8. The learned Standing counsel appearing on behalf of the respondent / RPF objected the said contention by stating that the negligence and dereliction of duty established against the writ petitioner are serious in nature. While handling the arms and ammunition the Police Personnel are expected to be more vigilant and cautious. Due to casual handling of pistol during the relevant point of time, the accident took place and a Head Constable lost his life. Therefore, though it is an accident, the negligence and dereliction resulted in loss of the life of a Head Constable and therefore a serious view was taken by the Department and thus the punishment of removal from service is appropriate and there is no infirmity as such and consequently the Writ petition is liable to be rejected.

9. Considering the facts and circumstances, this Court is of the considered opinion that the role of the Armed Forces are of paramount importance in maintaining the orderliness in the society. They are given special training to handle arms and ammunitions and police personnel are expected to deal with arms and ammunitions cautiously and in a vigilant manner. When the pistol is loaded and when they are attempting to remove the same, they are expected to take all precautionary measures and perform their duties and responsibilities. Any incident occurred due to negligence and dereliction of duty which resulted in loss of life, the said incident cannot be designated as an ordinary incident and more so in the present case, the negligence and dereliction of duty caused the death of the Head Constable, who was working in the same Railway Protection Special Force.

10. The procedures as contemplated, has been followed by the Authorities competent. The petitioner was provided with an opportunities to defend his case. The Enquiry Officer found that the charge against the writ petitioner are held to be proved. Based on the proved charges, punishment of removal from service was imposed.

11. Considering the facts and circumstances and looking into the nature of allegations against the writ petitioner, which was proved before the Departmental Enquiry, this Court is of the considered opinion that the punishment of removal from



service cannot be construed as disproportionate with the gravity of allegations established against the petitioner. The power of judicial review of the High Court under Article 226 of the Constitution of India, can be exercised through the process against the decision taken by the competent authority, by following procedures under the statute and rules but not by the mere decision itself. Therefore, the High Court has to find out whether the procedures are followed and an opportunity contemplated under the rules are afforded to the delinquent official, imposing all penalties before the Authority competent and the scope of interference in the said domain by the High Court, is undoubtedly limited. If at all, the punishment is excessive and not in commensuration with the charges laid, then alone the High Court can involve with the quantum of punishment and not otherwise.

12. The contention of the petitioner that a lenient view is to be taken, if considered, would result in a wrong precedent and in such cases, where the allegations are serious and the charges are proved then the quantum of punishment decided by the competent authority become final and therefore, this Court do not find any infirmity in respect of the quantum of punishment imposed by the competent authority on the writ petitioner.

13. It is brought to the notice of this Court that the mercy petition filed by the petitioner was also rejected on the ground that the writ petition is pending. Therefore, the writ petitioner is at liberty to submit further mercy petitions, if he is chosen to do so.

14. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

mrm

To

1. The Deputy Inspector General
Railway Protection Special Force,
Railway Board,
Ministry of Railways,
Government of India,
New Delhi.



2.The Senior Commandant,
12 Battalion,
Railway Protection Special Force,
Thakurali - 421 206,
Thane District,
State of Maharashtra.

+1cc to M/s.S.Subramanian, Advocate, S.R.No.34823

W.P.No.11695 of 2014

PL(CO)
SB(06/07/2022)