

03.01.2024
Court No. 13
Item No. 343
AP

WPA 4686 of 2021

**Sri. Budhram Oraon
Vs.
Union of India and Ors.**

Mr. Achin Kumar Majumder
Ms. Ananya Adhikary

.... For the Petitioner.

1. Despite directions passed on 26th February, 2021, the respondents, Railway Protection Force (hereinafter referred to as “the RPF”), have not used any affidavit-in-opposition.

2. A specific notice was addressed in the matter to them by the counsel for the petitioner on 5th December, 2023, that was received on 6th December, 2023, despite whereof there is no representation on their behalf today.

3. It is, therefore, presumed that the respondents have nothing to say to the prayers made in the writ petition.

4. The subject matter of the instant writ petition is an order dated 5th June, 2020 passed by the learned Divisional Security Commissioner, RPF, South Eastern Railway, Chakradharpur, whereby a formal inquiry was dispensed with under Sub-Rule (ii) of Rule 161 of the RPF Rules 1987 and the writ petitioner was summarily dismissed from service.

5. The facts of the case are that the writ petitioner was a constable and posted under RPF Post Rourkela. On 3rd June, 2020 the petitioner and three other constables were detailed to perform train escorting duty. They were supposed to return to the RPF Post at Jharsugda next day. The writ petitioner did not return to his post while the other constables returned.

6. On enquiry it was found that the writ petitioner was involved in a inebriated brawl with certain local residents at Chakradharpur near a country liquor shop. He was detained by the Chakradharpur PS. Proceedings are launched against the writ petitioner the very next day i.e. 5th June, 2020. Enquiry was dispensed with under Rule 161(ii) of the RPF Rules, 1987 and the writ petitioner was dismissed from service for violation of Rule 146.2 (i), 146.2 (ii), 146.4, 147(i), 147(v) and 147(ix) of the RPF Rules 1987.

7. The relevant portion of the order dispensing with Enquiry is set out hereinbelow:-

“Sri.B.R.Oram, Constable 846124 of RPF Post/ROU acted in a manner prejudicial to discipline and misconduct brought discredit to the reputation of the Force. In order to restore the trust and faith among public, it is imperative that immediate deterrent action is taken against the said Constable 846124 Sri.B.R.Oram using full authority of legal power. If immediate action is not taken the said Constable will be emboldened further such activities among the member of the force, which could constitute a grave threat to public security and reputation of the Force.

Based on the above mention facts and circumstances and considering the gravity and exigency of the matter, I conclude that it is not reasonable practicable to hold an inquiry under the relevant provisions of RPF Rules 1987. It is prudent to take

immediate and stern action Sri.B.R.Oram Constable 846124 of RPF Post ROU under Rule 161(ii) of RPF Rules 1987.”

8. This Court on several decisions had indicated that dispensation with an enquiry under Rule 161(ii) of the RPF Rules cannot be made lightly. It is only in extreme and rare circumstances where it is not possible to hold any enquiry and that the RPF Authorities can invoke Rule 161(ii) of the RPF Rules.

9. Dismissal from service even of an employee of a disciplined force has far reaching consequences on the life and liberty of a person. The very existence of a family may be in question, consequent upon such a drastic decision. Even if there are circumstances where no enquiry is possible, the disciplinary authority has upon itself a bounden duty to give sufficient and detailed reasons for dispensing with an enquiry.

10. The RPF like any of the other CAPFs is a disciplined force. The highest level of discipline and probity of conduct are expected from members of such a disciplined force. However, it is only in rare circumstances can a formal enquiry, into any act of misconduct of a member of its force, be dispensed with. Even if such grounds exist, the decision to dispense with such enquiry must be supported and informed with sufficient detailed and convincing reasons.

11. It appears from the impugned order that Rule 161(ii) of the RPF Rules has been invoked only because

the misconduct alleged against the writ petitioner was grave. This cannot be a ground for dispensing with an enquiry.

12. The RPF in their anxiety to maintain discipline cannot do away with the principles of natural justice, which is now an integral part of Article 14, 19 and 21 of the Constitution of India.

13. The impugned order dated 5th June, 2020 is, therefore, set aside. Consequently, the orders of the Appellate Authority dated 3rd September, 2020 and that of the Revisional Authority dated 17th December, 2020 are also set aside.

14. The writ petitioner shall be treated as on service from 5th June, 2020. The writ petitioner shall be paid 40% of his total wages and emoluments that he would have received had he been on service as on date from 5th June, 2020.

15. This order shall not, however, prevent the RPF from initiating an appropriate enquiry against the writ petitioner for his alleged misconduct.

16. With the aforesaid directions, the writ petition is allowed and disposed of.

17. There shall be no order as to costs.

18. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)