



2024-00000000-00



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

Judgment Reserved on: 15.02.2024
Judgment Pronounced on: 05.03.2024

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W.P.(C) 4579/2023

INSP/GD JITENDER SINGH

..... Petitioner

Through: Ms. Ankita Patnaik, Advocate

Versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Niraj Kumar, CGSC for UOI

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

SAURABH BANERJEE, J.

1. As per facts, the petitioner, an Inspector/GD in the Central Reserve Police Force¹, was posted in GC Jharoda Kalan, New Delhi as the Manager of the Central Police Canteen² w.e.f. 06.06.2016 till 11.09.2017. In 2018, an audit of the Master canteen and the Subsidiary canteen was conducted wherein due to certain irregularities and malpractices being pointed out, vide order dated 23.04.2018, a Preliminary Enquiry into the said irregularities was ordered and vide Office Order dated 29.04.2019, a Court of Inquiry³ was directed to be conducted to find out actual loss, cost of obsolete/ unsold/ items etc. of CPC Master and Subsidiary Canteens due to overstocking/

¹Hereinafter referred to as 'CRPF'

²Hereinafter referred to as 'CPC'

³Hereinafter referred to as 'COI'



improper handing/ taking over charges/ over indenting/ procedural irregularities etc. and to fix the responsibility of erring staff/ recoveries of the loss etc.

2. The COI Board submitted its report stating therein that a net loss of Rs.12,58,266/- and Rs.3,23,944/- was suffered by the CPC Master and Subsidiary Canteens respectively. Based upon the COI, the respondents vide impugned order dated 11.11.2019 held that the loss suffered by the CPC Canteens was recoverable from the officials named therein, including the petitioner, as the said personnel had discharged their duty with profit and their integrity towards their duty was in question. It was held that the total amount recoverable from the petitioner was Rs.3,34,541/- [Rs.2,48,947/- for the Master Canteen (Rs.2,38,910/- being 40% of the Collective Recovery Amount of Rs.5,97,275/-) and Rs.10,037/- (Personal Recovery) and Rs.85,594/- being 30% of the Collective Recovery Amount of Rs.2,85,314/- for the Subsidiary Canteen] and that the same was duly recovered from the petitioner by deducting it monthly from his salary.

3. It was further held that since the petitioner, along with 2 other personnel namely SI Jasbir Singh and SI/GD Pankaj Kumar were the main culprits for the irregularities in the CPC, a joint Departmental Enquiry⁴ was proposed vide Memorandum dated 31.05.2019 and vide order dated 23.06.2019, an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 read with Rule 27 of CRPF Rules, 1955 was directed to be conducted against the above-named personnel including the petitioner herein, for the charge “*That Force No. 031531906 SI/GD Jitender Singh (Now INSP/GD) who is presently posted*

⁴ Hereinafter referred to as ‘DE’



at 194 RAF Bn and under the order of transfer for six months at this Group Centre, and Force No. 085020434 SI/GD Jasbir Singh, stationed at Group Centre CRPF New Delhi, have showed disobedience of orders, laxity in discharging their duties, and other forms of misconduct while serving in the force as a Canteen Manager in which they issued illegal supply orders to various firms by misusing their respective posts while performing the duties at Central Police Master / Subsidiary Canteen, Group Centre, CRPF, New Delhi and 'supplies' so made by firms without supply orders, were taken into stock with the help of No. 041676222 CT/ GD. Pankaj Yadav (Canteen Salesman / Assistant Clerk), is against the good discipline of the force under Section 11(1) of the Central Reserve Police Force Act 1949 read with Rule 27 of CRPF Rules, 1955, which is a punishable offence.”, and that no further disciplinary action was needed against them.

4. Vide order dated 18.10.2021, though SI Jasbir Singh and SI/GD Pankaj Kumar were held guilty and awarded punishment, however, the petitioner herein was absolved of the above charge leveled against him holding that three of the provisions made in the charge-sheet issued against him were not fully proved. After being exonerated in the joint DE, the petitioner submitted representations dated 28.03.2022 and 10.08.2022 seeking refund of the recovered amount, however, no response was received thereto.

5. The petitioner thus filed W.P.(C) 508/2023 before this Court, which was disposed of vide order dated 17.01.2023 directing the respondents to decide his representations. The petitioner thereafter submitted another representation dated 25.01.2023, to which he was sent an earlier order dated 22.06.2022, rejecting his claim for refund of the recovered amount. The



respondents thereafter also passed an order dated 09.02.2023, once again rejecting the representation of the petitioner dated 25.01.2023.

6. Hence, the petitioner has filed the present petition under Article 226 of The Constitution of India seeking setting aside of the orders dated 09.02.2023, 22.06.2022 and 11.11.2019, and to direct the respondents to refund the recovered amount of Rs.3,34,541/- to the petitioner alongwith 10% interest from the date of such recovery.

7. Learned counsel for the petitioner submitted that the impugned orders are liable to be set aside as once the petitioner has been absolved of all the charges in the joint DE, the recovered amount is liable to be refunded to the petitioner. He further submitted that the impugned order dated 11.11.2019 was arbitrarily passed even before the DE was concluded and thus the amount was illegally recovered from the petitioner.

8. Learned counsel further submitted that the impugned orders dated 22.06.2022 and 09.02.2023 are liable to be set aside as the only reason given by the respondents for rejection of his representations is that since the COI and the DE were separate proceedings, the exoneration in the latter had no bearing upon the amount recovered from the petitioner, which is contrary to records as it has itself been stated by the respondents that since DE is undergoing, no further disciplinary steps are required to be taken against the petitioner, clearly showing that the two proceedings were connected and involved the same incident.

9. *Per Contra*, learned CGSC for the respondents opposing the present petition submitted that the petitioner is not entitled to any refund of the recovered amount as the same was recovered pursuant to the COI for the collective loss caused to the CPC Master and Subsidiary Canteens on



account of the actions of the named personnel including the petitioner herein, whereas the DE was conducted only against three personnel for separate charges wherein only the petitioner was exonerated. He thus submitted that since the two proceedings were separate for separate charges, there was no nexus between the same and thus the exoneration in the DE shall not entitle the petitioner for refund of the recovered amount.

10. This Court has heard the learned counsel for the parties on merits and has also gone through the documents on record.

11. Prior to proceeding to adjudicate upon the issue involved herein, since the petitioner herein was *admittedly* facing two separate proceedings, one being the COI and the other being the DE, it is felt appropriate to refer to both separately.

12. Records reveal that the COI was primarily conducted to determine the loss incurred by the Master and Subsidiary Canteens due to the irregularities and malpractices carried on by the personnel in charge for the relevant period, including the Manager, Salesman, Stockiest etc. Further, needless to say, the same was determined after examining the records of the CPC Master and Subsidiary Canteens such as the cashbook, bank deposits liabilities/creditors and payments made to the firm concerned and details of recovery and the amount collectively and individually recovered from the named personnel including the petitioner herein was the cost of goods found to be GST free on verification on 31.07.2016, at the time when the petitioner was the Manager of the CPC.

13. A perusal of the order dated 11.11.2019 further reveals that the COI Board had recommended initiation of disciplinary proceedings against the petitioner for his conduct, wherein he continued to make purchase orders



despite handing over the charge, and further despite knowledge of the said irregularities and discrepancies, he did not take any steps to rectify the same. Further, the COI Board also recommended in its order dated 11.11.2019 that “(6)...related to recovery of losses in CPC Master/Dry canteen apart from recovery from the delinquent personnel, disciplinary action against them action may be taken, if required to do so by the disciplinary authority is deem appropriate.” It was only because the joint DE had already been initiated against the petitioner that no further disciplinary steps were to be taken against him.

14. Similarly, records also reveal that out of the named personnel in the COI, the DE was conducted only against three personnel including the petitioner herein for the specific charge that the accused personnel had allegedly issued illegal supply orders to various firms by misusing their respective positions and without supply order, the supplies made by the firms were taken in stock with the help of the Canteen Salesman/Assistant Clerk which is against the good order and good discipline of the Force and is a punishable offence under the CRPF Act. Also, though the petitioner was absolved of the specific charges as the charges against him were not proved, however the remaining two personnel were duly held guilty and were also awarded punishment respectively.

15. Thus, what bears out from the aforesaid is that though both the COI and the DE proceedings were emanating from the same set of facts, however, they were conducted for entirely different purposes and they were separate proceedings. While the COI was conducted to determine the loss caused to the CPC and to recover the same from the personnel who were in-charge/ employed in the CPC at the relevant time, the DE was only held



against three personnel including the petitioner, that too for the limited purpose of enquiring into the fake and illegal supply orders made by the accused persons.

16. In any event, though the petitioner had been absolved from the charges of making illegal supply orders, having been the Manager of the CPC at the relevant time, he was rightly held to be liable for compensating the loss caused to the CPC Master and Subsidiary Canteens and hence the exoneration in the DE does not entitle the petitioner to any refund of the amount recovered from him under the COI and the petitioner is further not entitled to any refund of the recovered amount as the same was recovered pursuant to the COI for the collective loss caused to the CPC Master and Subsidiary Canteens on account of the actions of the named personnel including the petitioner and the exoneration in the DE proceedings cannot have any bearing upon the amount recovered from the petitioner.

17. In view of the factual matrix and the settled principles of law, no ground of relief is made out in favour of the petitioner. Accordingly, the petition being devoid of merits is dismissed.

SAURABH BANERJEE, J.

V. KAMESWAR RAO, J.

MARCH 05, 2024/rr