

05.05.2025
Item No.02
Ct. No.1
RP/SM

FMA/661/2020
IA NO: CAN/1/2021
CAN/2/2023

SOMNATH DUBEY @ S N DUBEY
VS.
UNION OF INDIA

Mr. Sk. Mujibar Rahman, Adv.
Mr. Shayak Mitra, Adv.

...for the Appellant.

Ms. Chandreyi Alam, Adv.

...for the Respondent.

1. This intra-court appeal is directed against the judgment dated 19th December, 2019, passed in W.P. 21809 (W) of 2011. By the said order the writ petition filed by the appellant was dismissed.
2. The appellant was a Constable in the Central Reserve Police Force (CRPF). The appellant came across adverse notice which led to issuance of a charge memorandum dated 21st March, 2009, containing two articles of charge. The first being that he committed an act of neglect of duty/misconduct in his capacity as a member of the Force under section 11(1) of the CRPF Act, 1949. He deserted the camp on 13th November, 2008, at his own without prior permission of the competent authority and without any information which is prejudicial to good order and discipline of the Force. The second article of charge was that the appellant while functioning as CT/GD at Unit HQR/38 Battalion committed an act of indiscipline activities in his capacity. He deserted the Unit Headquarter Camp through illegal way by tampering

with the defence of camp and endangering the security of the camp which is prejudicial to good order and discipline of the Force. The statement of imputation of misconduct or misbehaviour was furnished along with a list of documents in support of the charges and a list of witnesses that the prosecution sought to be examined. Subsequently, an enquiry officer was appointed and a departmental enquiry was conducted and charges were held to be proved. Due opportunity was granted to the appellant to submit his reply. As could be seen from the order passed by the disciplinary authority the appellant pleaded guilty of the charges framed against him. The appellant preferred an appeal before the Appellate authority which stood dismissed. The appellant filed a revision petition before the revisional authority which also stood rejected. Challenging the same writ petition was filed and the learned Writ Court had elaborately considered the grounds which were canvassed. The learned Single Bench rightly took note of the fact that disappearance of the appellant from the camp without permission and recording of the second FIR disclosing a cognizable offence under the Indian Penal Code has deepened the charge of desertion. Furthermore, the learned Writ Court took note of the fact that the appellant was arrested by the local police in connection with the second FIR, thereby attracting the charge of committing illegal acts transgressing the call of duty of a member of a discipline Force. After considering all the

grounds which were canvassed the Court took into consideration the decision in the case of ***Divisional Controller, Karnataka State Road Transport Corporation vs. M.G. Vittal Rao***, reported in ***(2012) 1 SCC 442***, where one of the aspects which was dealt with regard to loss of confidence of the employer on the employee. Apart from that the learned Writ Court also took into consideration as to what is the degree of trust and confidence on a member of a disciplined Force has to exercise and took note of the decision of the Hon'ble Supreme Court passed in the case of ***Samar Bahadur Singh vs. State of Uttar Pradesh and Others***, reported in ***(2011) 9 SCC 94***, wherein the Hon'ble Supreme Court has observed that acquittal in the criminal case shall have no bearing or relevance to the facts of the departmental proceeding as the standard of proof in both the cases are totally different. However, the appellant was the member of disciplinary Force and he was serving in a camp at Kashmir, he did not report back, he did not reply to the memorandum of charges within the prescribed time also pleaded guilty during enquiry.

3. In the result, we find that the learned Single Bench has elaborately considered all aspects and declined to interfere with the order of punishment imposed. Thus, we find no justifiable reasons to interfere with the impugned judgment.
4. Accordingly, the appeal and the connected applications stand dismissed.

5. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

[CHAITALI CHATTERJEE (DAS), J.]