
Ex. Ct. (GD) Ravinder Kumar Vs Union of India (UOI) and Others

WPC 6903 of 2002

Court: Delhi High Court

Date of Decision: Sept. 30, 2004

Acts Referred:

Central Reserve Police Force Act, 1949 " Section 11(1)

Hon'ble Judges: Gita Mittal, J; Dr. M.K. Sharma, J

Bench: Division Bench

Advocate: H.S. Raghav, for the Appellant; Jaswinder Singh, for the Respondent

Final Decision: Dismissed

Judgement

Mukundakam Sharma, J.

As the petitioner was ordered to be removed from service consequent upon a departmental proceeding initiated

against him, he has preferred this writ petition challenging the aforesaid action of the respondents in removing him from service.

2. The petitioner was recruited into the Central Reserve Police Force on April 1, 1990. On September 12, 2001 the petitioner was on night sentry

duty from 1930 hours to 2200 hours in Morcha No. 6 at Department Headquarter Anantnag, Jammu and Kashmir. There he picked up a quarrel

with another constable GD Swaran Singh while allegedly under the influence of alcohol and beat him with fists and kicks. It was also alleged that

the petitioner loaded his service rifle and pointed its barrel towards another Jain Prakash who with the help of another colleagues was able to

snatch the loaded rifle from the petitioner. A further allegation is also made that the petitioner under the influence of alcohol abused Guard

Commander and other senior officers and created a lot of nuisance for quite some time and that Therefore the petitioner was medically examined

by the Unit Medical Officer. Due to the aforesaid reasons the Commandant, 5th Battalion, who is the disciplinary authority of the petitioner,

suspended the petitioner from service and thereafter initiated a departmental proceeding against the petitioner. In the said departmental proceeding

Shri S.C. Rawat, Deputy Commandant, was appointed as the Enquiry Officer to enquire into the matter and to submit his report. Altogether three

specific charges were drawn up against the petitioner in the departmental proceedings. The respondents led evidence in support of the aforesaid

charges and prosecution witnesses were examined. During the aforesaid proceedings the petitioner pleaded not guilty to all the charges. The

Enquiry Officer recorded evidence of witnesses examined in the said proceedings and thereafter submitted his report on September 14, 2001

finding the petitioner guilty of the charges.

3. The Disciplinary Authority considered the report of the Enquiry Officer along with the records of the departmental proceedings and found that

the said departmental enquiry was concluded strictly according to the rules and laid down procedure and instructions on the subject. After going

through the records the Disciplinary Authority agreed with the findings recorded by the Enquiry Officer and held that all the three charges framed

against the petitioner were proved beyond any doubt and found the petitioner guilty of all the three charges. Consequently, the Disciplinary

Authority held that the petitioner is not a fit person to be retained in the force and accordingly, by exercising powers vested u/s 11(1) of the CRPF

Act, imposed the penalty of removal from service on the petitioner and his name was ordered to be struck off from the strength of the unit. Being

aggrieved by the aforesaid order the petitioner submitted an appeal which was dismissed. Thereafter, the present petition was filed on which we

have heard the learned counsel appearing for the parties.

4. It was vehemently contended by Mr. Raghav, appearing for the petitioner, that in the departmental proceedings although evidence was recorded

but none of the articles of charges was proved. In support of his contention he has particularly referred to the contents of Article III wherein it was

alleged that the petitioner under intoxication of liquor had shown gross insubordination and abused SI K.B. Thapa and HC Chaman Lal and other

senior officers of the unit. It was submitted by the counsel that Sri K.B. Thapa in his deposition had flatly denied that the petitioner had even

abused him on the night of September 12, 2001. He also submitted that as no blood test or urine test of the petitioner was conducted during the

course of medical examination, Therefore the findings recorded by the enquiry officer that the petitioner was intoxicated cannot be believed. He

submitted that consumption of liquor by itself cannot be an offence and that as the prosecution has failed to prove that the petitioner as intoxicated

by making a thorough medical and urine tests, Therefore, the benefit of doubt must go in favor of the petitioner, and Therefore he should be

acquitted of the charges. It was also submitted that the punishment awarded to the petitioner is disproportionate to the offence alleged.

5. Counsel appearing for the respondents, however, refuted all the aforesaid submissions by drawing our specified attention to the various records

including the evidence adduced.

6. In view of the petitioner's contention that there was no material to find him guilty, we have carefully looked into the evidence adduced by the

respondents in the departmental proceedings. That the petitioner consumed liquor on the fateful day is an admitted position. The petitioner was

medically examined on the night of September 12, 2001 and the medical report indicates that the petitioner was under intoxication. It is recorded in

the said report that the petitioner was in unstable mood and there was loss of restraint. His state of dress was also recorded as soiling of clothes

with alcoholic smell. His speech was thick, slurred and over precise. There was also loss of self control and had a alcoholic smell per breath. His

gait was staggering, irregular and lurching. His blood sample could not be taken as he was very excited and was not cooperative. The aforesaid

report clearly proves and establishes that the petitioner was highly intoxicated. The reason for absence of blood and urine tests is evident on the

face of the said medical report. No blood sample could be taken because the petitioner was very excited and was also not cooperative. The

enquiry officer upon appreciation of the evidence on record found that the charges against the petitioner stood proved.

7. The present case cannot be said to be a case of no evidence. In fact, reliable and cogent evidence is on record to indicate that the petitioner was

not only under intoxicated state but also abused officers like Chaman Lal. It is true that SI K.B. Thapa had stated in his evidence that the petitioner

did not abuse him. But the evidence of Chaman Lal clearly indicates that the petitioner under intoxication of liquor had shown gross insubordination

and also abused him. This court in a case of departmental proceedings cannot re-appreciate the evidence adduced by the witnesses. The findings

recorded by the enquiry officer clearly prove and establish that the charges against the petitioner are proved. The disciplinary authority after going

through the records was also satisfied that the charges were proved. Under the said circumstances we cannot hold that the punishment awarded to

the petitioner is disproportionate to the offence alleged against him.

8. In the light of the facts proved and established in the present departmental proceedings, we are of the considered opinion that the punishment

awarded against the petitioner is legal and just and the same cannot be interfered with.

9. In view of the findings and conclusions arrived at by us, we find no merit in this writ petition and the same is dismissed.