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V.vikraman vs.uoi & Ors

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Court : Delhi

Decided On : Feb-02-2017

Appellant : V.vikraman

Respondent : Uoi & Ors

Judgement :

$~16 * IN THE HIGH COURT OF DELHI AT NEW DELHI + W.P.(C) 2328/2007 V.VIKRAMAN .....

... Petitioner
Through Mr. Rajeev Sharma with Mr. Kanishka Gaur, Advocates versus UOI & ORS .....

... RESPONDENTS
Through Mr. Bhagwan Swarup Shukla, CGSC with Mr.Shambhu Chaturvedi & Mr. B.V.Niren, Advocates for respondents No.1 to 4 CORAM: HON'BLE MS. JUSTICE INDIRA BANERJEE HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA % INDIRA BANERJEE, J.

(ORAL) JUDGMENT0202.2017 In this petition, the petitioner has challenged an order of punishment dated 25.10.2005 whereby the petitioner has been awarded the punishment of reduction to the lowest stage in the time scale of pay for a period of two years with further directions that he would not earn increments of pay during the period of such reduction and that the reduction would have the effect of

postponing the future increments of his pay. WP(C) 2328/2007 page 1 of 9 On or about 5.11.1993, the petitioner joined the Special Service Bureau (SSB) under the Cabinet Secretariat as Company Commander (Group A) and was posted to the C Company at Jang in Tawang District in the State of Arunachal Pradesh under Group Centre Dirang. After undergoing training at the National Industrial Security Academy, Secunderabad, the petitioner joined the C Company at Jang, Tawang District as Officer Incharge in January, 1995. On or about 20.12.1996, the C Company of Group Centre Dirang, of which the petitioner was Officer in-Charge, made over charge to the E Company, and the petitioner was moved to the location of C Company at Bomdila, also in Arunachal Pradesh. On or about 24.05.1997, in course of audit inspection at Tawang, by an Accounts Officer, from the office of the Divisional Headquarters at Itanagar, it transpired that food items worth Rs.77,000/- odd, for which payment had been made, had not been supplied by the contractor. Investigation followed, after which a charge sheet was issued to the petitioner on 14.9.2001. The petitioner was inter alia charged with fictitious endorsements which led to the WP(C) 2328/2007 page 2 of 9 passing of the bills. Excerpts from Article I of the Statement of Imputation of Misconduct or Mishehaviour in support of the Article of Charge framed against the petitioner are extracted herein below: That the said Sh. V.Vikraman, while functioning as Coy Commander C Coy Jang during the aforesaid period, constituted a Line Committee on 15.02.1996 with Sh.V.Vikraman, Asstt. Comdt. As President Insp(GD) Hari Lal and No.6340634 HC (GD) D.R. Sharma as member. As per the Line Committee Report various ration items were inspected and found satisfactory. Thereafter, a receipt voucher on the body of the Line Committee report was signed by the said Sh. V.Vikraman certified that received and entered in stock book page No.163 on 15.2.96. Subsequently, a bill bearing No.SDG/SSB/Jang/06/95-96 dated 16.2.96 for Rs.2,15,33.00 of M/s S.D. Gupta, Tezpur in connection with supply of various kinds of ration items was processed and necessary certificate was endorsed on the body of the bill to the effect that the stores received correctly in good condition and taken on ration stock book at page-163 dated 15.2.96 duly signed by the said Sh.V.Vikraman. The said bill was forwarded to the Commandant, CG SSB Dirang vide C Coy. Jang office letter no.GCR/C/QR/95-96/2709 dated 15.2.96. However, during scrutiny it was revealed from the register of E Coy, Jang opened on 21.1.97

that 646.000 Kgs of Onion, 1396.000 Kgs of Potato, 8890.000 Kgs of fresh vegetable, 290.000 Kgs of meat-an-hoof and 175.000 Kgs of Dry fruit were due from M/s. S.D. Gupta against Bill No.SDG/SSB/Jang106/9596 for Rs.2,15,300.00. Subsequently during inspection as on 24.5.97, following ration items were still to be supplied by M/s S.D. Gupta, Tezpur against the above bill: WP(C) 2328/2007 16.2.96 dated page 3 of 9 Onion Potato Fresh Vegetable Dry Fruit 1.

2. 3.

4. Total cost of the above ration items comes to Rs.77,079.00 1.500 Kgs 36.000 Kgs 7409.500 Kgs 157.00 Kgs : : : : Article II of the Articles of Charges against the petitioner are as follows: Article- II That the said Shri V.Vikraman, while functioning in the aforesaid office, during the above period, has committed neglect of duty and shown lack of integrity by endorsing fictitious certificate on the body of the Bill No.KSG/08/C- Coy/Jang/95-96 dated 15.2.96 of Ration items amounting to Rs.1,60,320/- of M/s Kripa Shankar Gupta. The said Sh. V.Vikraman, Assistant Commandant by the above Act, exhibited a conduct most unbecoming of a Govt. Servant and shown lack of integrity and devotion to duty, thereby violated the provisions of Rule 3(1) (i) to (iii) of CCS (Conduct) Rules, 1964 and also attracts the provision of Rule 106 of the GFR. The petitioner duly replied to the charge sheet by a letter dated 05.10.2001 after which inquiry proceedings were conducted against the petitioner. WP(C) 2328/2007 page 4 of 9 The Inquiry Officer found that: it is the that established On examination of the records and the prosecution witnesses bill no.SDG/SSB/Jang/06/95-96 dated 15.2.96 amounting Rs.2,15,300/- was processed for payment to the firm by endorsing a certificate by Shri. V. Vikraman, Assistant Commandant certifying that the stores were received correctly in good condition and taken into stock ledger at page no.163 dated 15.2.96 without receiving full stores of the bill and without entering the stores in the stock ledger page no.163. However, on examination of the records it is found that all short supplied items during the day of line committee dated 15.2.96 were supplied by the contractor at a later dates in phased manner and hence there was no financial loss to the Govt.

11. REASONS IN SUPPORT OF THE FINDING to All the prosecution witnesses have affirmed that the bill bill supply of ration items according no.SDG/SSB/Jang/06/95-96, was not actually made. There were short supply of stores like potato, onion, fresh vegetables, MOF and dry fruits. The contractors, however, issued due slip for those items not supply and to be supplied at a later date. Therefore, it is proved that the certificate given by the Line Committee conducted under the presidentship of Shri V.Vikraman, Asstt. Commandant. On 15.2.96 that the stores were received correctly in good condition as per the bill is false and not correct. Accordingly the certificate recorded on the body of the said bill by Sh.V.Vikraman, A/C that the stores were received in good condition is also false and not correct. There are enough documentary circumstantial evidence that the stores were not entered in the stock ledger page no.163 on 15.2.96 as recorded on the body of the bill. However, stock entry was found to have been done at page 189 of another register. WP(C) 2328/2007 page 5 of 9 On scrutiny the relevant records like stock ledger, consumption register, it is found that the stores earlier short supplied on the date 15.2.96 on which line committee was held were subsequently made good and there was no loss to the state. In the inquiry, it was apparently established that the petitioner had given detailed false certificates on the basis of which the bills were cleared. Even though there was ultimately no loss to the Exchequer, as the articles were later supplied, false certification was in itself unbecoming of a government officer. Counsel appearing for the petitioner emphatically argued that it had been the long standing practice to issue certificates and clear bills against due slips and the items in respect of which certificates were granted used to be supplied at a later date. Learned counsel further argued that the petitioner was constrained to issue the certificates, incorrectly certifying receipt of food articles, which had not been supplied, as per past practice, to prevent disruption of supplies, which would have led to complete chaos, as there would be no food. WP(C) 2328/2007 page 6 of 9 Whatever be the exigencies, the issuance of false detailed certificates as given by the petitioner, certainly tantamounts to conduct unbecoming of a Government Servant, as observed above and evinces lack of integrity. May be as contended by learned counsel appearing on behalf of the petitioner, no loss was actually caused to the Exchequer. However, the act of issuance of false certificates, certifying that the goods had been received with

details of purported entries in stock registers, led to the passing and clearance of bills in respect of articles not supplied. It is fortuitous that the lost articles were made up as the supplier supplied them, though after considerable delay, and there was no actual loss. Even assuming that the petitioner had wrongly been charged with causing loss to the Exchequer, that was not the only charge against the petitioner. The petitioner had also been charged of conduct unbecoming of a government servant, and that charge has been established. The petitioner has only been awarded the punishment of inter alia reduction to the lowest stage in the time scale for a period of two years and not the higher punishment of dismissal from service, WP(C) 2328/2007 page 7 of 9 possibly having regard to the extenuating circumstances as argued by learned counsel appearing on behalf of the petitioner, including the age and inexperience of the petitioner. It appears that a Departmental Promotion Committee was held to consider the promotion of the petitioner in 2003. However, promotion was not granted to the petitioner as charge sheet had been issued to the petitioner on 14.12.2001 and disciplinary proceedings started against the petitioner, were still pending. In the meanwhile on 4th October, 2002, officers junior to the petitioner were granted Senior Time Scale of Rs. 10,000/- to Rs. 15,200/-. Some of the charges against the petitioner were established in the inquiry. In my view, the denial of promotion is not liable to be interfered with nor the order of punishment. In my view, there can also be no question of grant of senior time scale with effect from 4.4.2001 notwithstanding the findings against the petitioner in the inquiry. The order of punishment, impugned in this writ petition has been passed after initiation of proper disciplinary proceedings by WP(C) 2328/2007 page 8 of 9 issuance of a charge sheet informing the petitioner of the allegations and/or charge against him. The petitioner duly replied to the charge sheet, and his reply to the charge sheet was duly considered. An enquiry was conducted. It is not for this Court exercising jurisdiction under Article 226 of the Constitution of India to sit in appeal over the finding of the Inquiry Authority or the decision of the Disciplinary Authority. Nor can this Court re-analyse the evidence to examine if the authorities arrived at the right finding. The Inquiry against the petitioner was in accordance with the principles of natural justice, giving the petitioner four opportunity to defend himself. Furthermore, the petitioner was given a copy of the Inquiry Report and the opportunity to make a

representation against the same. The Disciplinary Authority concurred with the findings in the Inquiry. Detailed representation of the petitioner has been rejected by the President of India The writ petition thus fails and the same is dismissed. WP(C) 2328/2007 INDIRA BANERJEE, J.

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