

**Dharam Pal Vs. U.O.i and ors**

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**Court :** Delhi

**Decided On :** Dec-03-2010

**Judge :** Gita Mittal; J.R. Midha .Jj.

**Appeal No. :** W.P.(C) No.16321/2006

**Appellant :** Dharam Pal

**Respondent :** U.O.i and ors

**Advocate for Def. :** Ms. Saroj Bidawat, Adv.

**Advocate for Pet/Ap. :** Mr. H.S. Kathuria, Adv.

**Judgement :**

1. The petitioner has assailed the order of removal dated 9th July, 2004; appellate order dated 13th October, 2004 dismissing the petitioner's appeal and a revisional order dated 31st August, 2005 dismissing the petitioner's revision petition assailing the other orders. The disciplinary proceedings were conducted against the petitioner pursuant to a charge-sheet dated 7th January, 2004 on the following charges:-

**"CHARGE- 1**

Force No.962290020 Water carrier (suspended), CISF Unit Goa Airport, on dated 15.12.2004 at about 1010 O'clock in the Mess of unit, has made allegation against the wife of his colleague Water Carrier Dalbir Singh by saying that his wife is

character less and earlier she has been illicit relation with water carrier Richpal Singh as well as the senior officers. When the water carrier Dalbir Singh resisted then water carrier Dharam Pal attacked on him with the Bellan (Bread roller). The water carrier Dharam Pal 1has leveled a very mean allegation against the wife of his companion and tried to break her character and on objection raised by husband of a innocent lady he attacked on him, it shows his indiscipline and bad behave habits, therefore, the charge is leveled.

## CHARGE-II

"Force No. 962290020 Water Carrier Dharam Pal (Suspended), CISF Unit Airport Goa, created un-peaceful environment and after passing the order of primary enquiry by the senior officers, he didn't co-operate and he absented from his duty without any information and he prepared a fake report of disease from the hospital, he refused to accept the official correspondence and he went in police station and lodged a false complaint and raised a bad mark on the character of force. The act done by the Water Carrier Dharampal shows his indiscipline and bad behave/habits, therefore, the charge is leveled.

## CHARGE-III

"Force No.962290020 Water carrier Dharam pal (Suspended) CISF Unit, Goa Airport is a habitual offender and he is also habitual to produce fake medical reports only to save himself from performing his duty. He has obtained 8th medical during the year 2002-2003 and he has taken about 26 times medical during his 08 years of service. A very short span of 08 years service he has been awarded with one major punishment and two minor punishment, but in spite of this he never try to amend himself, therefore, the charge is leveled."

2. The petitioner was given due opportunity to submit his reply against the charges which he denied. The record placed before us shows that in the inquiry, the petitioner was accommodated when he sought adjournments. He has attended two inquiry dates when evidence of two witnesses was recorded. The petitioner was, however, non-cooperative and refused to cross-examine a prosecution witness. He also did not sign the statement recorded by the inquiry officer.

3. We find that a total of thirteen prosecution witnesses were recorded by the inquiry officer. Despite receipt of notices issued by the inquiry officer, the petitioner had stopped attending the inquiry necessitating ex parte proceedings against him. The statement of the witnesses were duly supplied to the petitioner. The inquiry officer was of the opinion that the petitioner was guilty of the charges leveled against him. Copy of the inquiry report was served upon the petitioner by a letter dated 31st May, 2004 and he was given opportunity to submit a representation against the same.

4. The petitioner had reacted and on 20th June, 2004, the petitioner had submitted a representation setting out his contentions. After due consideration thereof, a final order dated 9th July, 2004 was passed by the disciplinary authority agreeing with the recommendations of the inquiry officer. It is not disputed that due process was followed. Thereafter the petitioner was found guilty of the charges. The punishment for the said charges which were of grave nature, removal from service which would not be a disqualification for further employment in the government, was imposed upon him.

5. As noted above, the petitioner's appeal was rejected by the Deputy Inspector General, CISF vide order passed on 13th October, 2004 and the revision was rejected by the Inspector General, Airport Sector, CISF by an order passed on 31st August, 2005.

6. Mr. Kathuria, learned counsel for the petitioner does not assail the findings of guilt of the petitioner before us. The challenge pressed is primarily on the ground that the punishment which was imposed upon the petitioner is grossly disproportionate to the seriousness and gravity of the charges which have been rejected.

7. We have considered the submissions made by learned counsel for the parties and also carefully perused the record placed before us. The petitioner made serious allegations against the wife of a colleague which were completely unfounded. Not only did he make imputations on her character but had involved other colleagues as well as senior officers of the force in his false allegations.

8. It cannot at all be contended that the charge against the petitioner was 3 not grave. The petitioner's claim that he was provoked by the person against whom he had made a charge is no justification at all for his conduct.

9. The petitioner was a soldier in a disciplined force and is expected to act with restraint. Certainly, the incident as is being asserted by the petitioner, was not such as to result in the incident which is the subject matter of charge leveled against him. There can be no justification at all for the conduct of the petitioner.

10. In addition, the petitioner has been found guilty of producing fake medical reports to avoid performance of duties. Eight such medical reports were produced between the year 2002-2003. The record also shows that in a short span of eight years of service, the petitioner had taken medical leave on 26 occasions. The respondents have been of the view that the petitioner was not serious in the performance of his duties. There is no challenge to the findings of guilt of the petitioner.

11. The disciplinary proceedings have been necessitated in view of the conduct of the petitioner and as noticed above, thirteen witnesses have been examined as prosecution witnesses during the course of the inquiry. Having regard to the nature of allegations against the petitioner, we are unable to agree with the contention that the punishment of removal from service is disproportionate to the gravity of the charges levelled against him. In view of the above discussion, we find no merit in this petition which is hereby dismissed.

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