

Dinesh Kumar Atri Vs. Uoi and ors.

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Court : Delhi

Decided On : Mar-10-2011

Judge : Pradeep Nandrajog; Suresh Kait, Jj.

Appeal No. : W.P.(C) No.8547/2010

Appellant : Dinesh Kumar Atri

Respondent : Uoi and ors.

Advocate for Def. : Mr.Nitish Gupta; Mr.Ravinder Agarwal, Advs.

Advocate for Pet/Ap. : Mr.V.N.Jha; Mr.Manoj Kumar Jha, Advs.

Judgement :

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to Reporter or not?

3. Whether the judgment should be reported in the Digest?

1. The facts are not in dispute and the only issue which arises for consideration is: Whether the petitioner had a justification to abscond. Secondly, whether the penalty of compulsory retirement levied upon the petitioner is shockingly disproportionate to the gravity of the offence.

2. It may be noted that the petitioner had joined service under CRPF in January 1987 and had served without a blemish, till he did the offending act attracting levy

of penalty of compulsory retirement upon him vide order dated 31.8.2009.

3. A Joint Departmental Inquiry was ordered against the petitioner Ct.Dinesh Kumar as also SI Chander Deep Singh and HC Ram Lochan. It was alleged against them that while functioning as Members of CRPF, they deserted from the store collection party leaving behind their personal arms and ammunitions and government belongings with the rest of the party when they left GC Gandhinagar on 30.12.2008 and were to report at the battalion headquarter in Srinagar on 3.1.2009. They reported at the battalion headquarter on 4.1.2009.

4. It may be highlighted that it is not in dispute that the 3 charged jawans along with 4 other constables were sent to Gandhinagar for depositing controlled stores, being armaments, from the 29th Bn. on 22.12.2008 under the command of SI Chander Deep Singh. They were to collect stores in return from Gandhinagar and bring the same to the 24th Bn. After depositing the controlled stores at Gandhinagar and collecting the stores to be brought to the 24 th Bn., SI Chander Deep Singh along with other two co-accused and 4 other jawans left Gandhinagar on 30.12.2008. Enroute, SI Chander Deep Singh, HC Ram Lochan and the petitioner deserted the party and left behind the stores which were to be brought to the 24th Bn. The remaining persons managed to bring the stores along with personal arms and ammunitions to Jammu on 2.1.2009 and therefrom to the location of the 24th Bn. on 3.1.2009. The next day, i.e. 4.1.2009 SI Chander Deep Singh, HC Ram Lochan and petitioner also reached Srinagar.

5. Whereas SI Chander Deep Singh accepted his guilt and requested to be spared stating that this was the only blemish on his part and he had only 10 months' service to superannuate. HC Ram Lochan stated that he and SI Chander Deep Singh got down from the train taking goods and when they returned, the train left. They were left behind. They took another train to reach Delhi. Therefrom they reached Jammu. Petitioner took the defence that he received information of his wife being seriously ill and requesting SI Chander Deep singh to leave the party on 30.12.2008 from Ahmedabad Railway Station, he left the station and reached the 24th Bn. on 4.1.2009, after meeting his wife.

6. Holding that the running away, after leaving the 4 jawans with the goods and personal arms and ammunitions for being brought to the 24th Bn. at Srinagar was a serious offence, factoring in the past service record of the 3 officers, penalty of compulsory retirement from service was levied upon the 3 delinquents. The effect thereof is the entitlement of all the 3 to pension and gratuity as per Rule 40 of the CCS (Pension) Rules.

7. It may be highlighted that the party of 8 jawans was issued arms and ammunitions as a group and not to anyone individually. This does not mean that the petitioner and the other two co-delinquents were not responsible for the safe custody of the arms. That apart, the jawans were transporting goods from Gandhinagar to Srinagar where the 24th Bn. was stationed and it was the duty of all to guard and keep under watch the goods which were entrusted to them.

8. The pleas taken by all 3 co-delinquents are an apparent ruse, for the simple reason, all 3 reached Srinagar on 4.1.2009 i.e. a day after their team members reached Srinagar. It is apparent that all 3 took a calculated decision to visit their respective hometowns and hoped that all 3 would reach Jammu when their other 3 team members would reach. Therefrom, all could proceed to Srinagar and reach Srinagar on 3.1.2009. Unfortunately, the petitioner and his co- delinquents reached one day late.

9. We concur with the stern view taken that jawans deserting en-route by abandoning goods entrusted to them is indeed a serious matter and especially when the goods are being transported by train. Such acts of indiscipline have to be brought down with a heavy hand.

10. On the issue of penalty, we note that the Disciplinary Authority has taken a conscious decision keeping in view the past service record of the 3 delinquents jawans. All of them have been levied the penalty of compulsory retirement with a clear direction that pension and gratuity as per Rule 40 of the CCS (Pension) Rules would be disbursed to all 3.

11. We find no merit in the writ petition and concur with the penalty imposed which has been confirmed by the Appellate and the Revisional Authority.

12. The writ petition is dismissed.

13. No costs.

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