

ANGAD DAS

v.

UNION OF INDIA & ORS.

(Civil Appeal Nos. 1429-1430 OF 2008)

FEBRUARY 18, 2010

[DALVEER BHANDARI AND A. K. PATNAIK, JJ.]

Service law:

Central Reserve Police Force Rules, 1955 – r. 28 – Delinquent official punished with ‘compulsory retirement’ on the charge of suppression of real date of birth at the time of joining service – Letter by the delinquent official to higher authority requesting to consider his re-employment – Treating the letter as appeal, punishment enhanced to ‘removal from service’ – Review dismissed by the authority concerned – Dismissal of writ petition – On appeal, held: Letter requesting re-employment cannot be treated as appeal u/r. 28 – Imposition of enhanced punishment was unjustified – Direction to pay pensionary benefits with interest.

The appellant, recruited as a constable in Central Reserve Police Force, was issued show-cause notice, after about 25 years of service alleging that his date of birth given at the time of joining the service, was found false. After the enquiry, he was given the punishment of compulsory retirement. The appellant, thereafter, wrote a letter to DIG Police, CRPF, praying for his re-employment in view of the fact that he had enormous family responsibility. This letter was treated as an appeal, and DIG Police, CRPF, enhanced his punishment to ‘removal from service’. The revision petition there against was dismissed by the competent authority. The writ petition challenging the orders was dismissed. Hence the present appeals.

A Allowing the appeals, the Court

B HELD: 1. The letter requesting for re-employment could not have been treated as an appeal under Rule 28 of Central Reserve Police Force Rules, 1955. The D.I.G. Police, CRPF, was unjustified in enhancing the punishment from 'compulsory retirement' to 'removal from service'. The order was legally untenable. The reviewing authority has also seriously erred in upholding the order passed by the D.I.G. Police, CRPF. The appellant and his family have suffered tremendous mental agony, and harassment was caused to them on account of arbitrary orders. The appellant be paid all the pensionary benefits which have become due and payable to him, with interest at the rate of 9% per annum, within two months from the date of communication of this order. [Paras 8, 10 and 11] [1051-C-E, G-H; 1052-A]

E 2. People in power and authority should not easily lose equanimity, composure and appreciation for the problems of the lesser mortals. They are always expected to remember that power and authority must be judiciously exercised according to the laws and human compassion. Arrogance and vanity have no place in discharge of their official functions and duties. The Court hopes and trusts that senior officials in future would not be totally oblivious of the problems of the humble and modest employees and pass similar orders. [Paras 1 and 13] [1049-B-C; 1052-B]

G CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1429-1430 of 2010.

G From the Judgment & Order dated 12.5.2008 & 4.8.2008 of the High Court of Delhi at New Delhi in Civil Writ Petition No. 5006 of 1998.

H Dalip Kumar Malhotra, Rajesh Malhotra for the Appellant.

Vivek Tankha, ASG, Satya Siiddique, A. Deb Kumar, A
Shreekant N. Terdal for the Respondent.

The Judgment of the Court was delivered by

DALVEER BHANDARI, J. 1. People in power and
authority should not easily lose equanimity, composure and
appreciation for the problems of the lesser mortals. They are
always expected to remember that power and authority must
be judiciously exercised according to the laws and human
compassion. Arrogance and vanity have no place in discharge
of their official functions and duties. C

2. Delay condoned. Leave granted.

3. Heard the learned Additional Solicitor General and the
learned counsel for the appellant at length. Brief facts necessary
to dispose of these appeals are recapitulated as under:- D

4. The appellant was recruited as a Constable in the
Central Reserve Police Force, Balia Police Line in the State
of U.P. in the year 1969. He was promoted to the post of Lance
Naik, then as Naik and thereafter to the post of Head Constable. E
When the appellant was posted as a Head Constable at
Jammu and Kashmir, he was served a show cause notice
dated 11.4.1995 by the Commandant 51 BN, C.R.P.F.
(respondent no.4) alleging that the date of birth as given by him
at the time of joining the service was found false. An enquiry F
was conducted and thereafter the appellant was compulsorily
retired from the service by way of punishment by an order dated
14th June, 1996 by respondent no.4. The said order reads as
under:-

"After careful thought and keeping in view of his long
service career, a family to support and considering natural
justice, I hereby impose the punishment of
'COMPULSORY RETIREMENT FROM SERVICE WITH
FULL PENSIONARY BENEFITS AND GRATUITY' on
No.690298321 HC Angad Dass w.e.f. 31/5/96 AN, in G
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A pursuance of the authority vested in me under Section 11(1) of CRPF Act, 1949 read with table below Rule 27 of CRPF Rule 1955.”

B 5. The appellant had sent a very polite letter of request to the Additional District Inspector General, Police (for short, DIG) praying that his request for re-employment be kindly considered because he has enormous responsibility of educating and marrying five daughters. The prayer was made with folded hands and touching his feet. The letter reflected pinnacle of humility. The relevant portion of request letter reads as under:-

C “I am burdened with the education and marriages of five daughters and I am the only earning hand and according to the hereditary record of Gram Panchayat my date of birth is 8.7.47. I had received that record under the order of BDO. I am also having certificate from the Gram Pradhan. I, therefore, with folded hands and touching the feet praying that I may be allowed to complete the service and I may be awarded any other punishment otherwise, seven people will be uprooted and will resort to beggary and will fall on the wrong path for earning their bread.”

F 6. Respondent No.4 would have been fully justified in either accepting or declining the appellant’s request for re-employment, but astonishingly, on 8th October, 1996 the request letter of the appellant for re-employment was treated as an appeal by the DIG Police, CRPF, Avadi, Madras and the punishment of “compulsory retirement” as awarded by the Commandant, 51 BN, CRPF, was enhanced to that of “removal from service” w.e.f. 31.5.1996. No provision of law permits him to treat a letter of request for re-employment as an appeal. The DIG (Police) has no power or authority to enhance the sentence of the appellant. We fail to comprehend how such an innocuous and polite letter of request seeking re-employment on compassionate ground can ever receive such an unwarranted and arrogant reaction. The order is wholly arbitrary and illegal.

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7. The appellant aggrieved by the said order filed a revision petition before the Special Director General, C.R.P.F., Hyderabad who unfortunately passed the following order on 2nd August, 1997. The relevant part of the order reads as under:-

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“HC Angad Das of 51 BN CRPF is hereby removed from service with effect from the date of issue of this order. The intervening period between 31-5-96 (AN) to the date of this order will be treated as ‘Dies Non’ for all purposes.”

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8. We are astonished as to how a simple letter of request for re-employment has been treated as an appeal by the D.I.G. Police, CRPF, and in exercise of his power under Rule 28 of the CRPF Rules, 1955, the punishment of “compulsory retirement” from service has been enhanced to “removal from service” w.e.f. 31.5.1996. The mere letter for re-employment could not have been treated as an appeal under Rule 28 of the CRPF Rules, 1955. The D.I.G. Police, CRPF, was totally unjustified in enhancing the punishment from “compulsory retirement” to “removal from service”. The order was legally untenable. The Special Director General has also seriously erred in upholding the order dated 8th October, 1996 passed by the D.I.G. Police, CRPF.

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9. In the peculiar facts and circumstances of this case, we are constrained to set aside the orders dated 8th October, 1996 and 2nd August, 1997. Consequently, the order dated 21.5.1996 passed by the Commandant, 51 BN, CRPF as amended by order dated 14.6.1996 of compulsory retirement is restored. The appellant would be entitled to all the benefits which flow from the said order.

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10. The appellant and his family have suffered tremendous mental agony and harassment caused to them on account of totally arbitrary orders mentioned above.

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11. We also direct that the appellant be paid all the pensionary benefits which have become due and payable to

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(A him, with interest at the rate of 9% per annum, within two months from the date of communication of this order.

B 12. Consequently, these appeals are allowed. Respondent No.1, Union of India is directed to pay costs of Rs.50,000/- to the appellant within two months.

13. We hope and trust that senior officials in future would not be totally oblivious of the problems of the humble and modest employees and pass similar orders.

K.K.T.

Appeals allowed.