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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 07.01.2025*

+ W.P.(C) 7570/2016

BABREY SINGH

.....Petitioner

Through: Ms.Saahila Lamba, Adv.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr.Umesh Burnwal, SPC,
Mr.Kunal Mallik,
Mr.Paramjeet, Ms.Priya Gaur,
Advts**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE SHALINDER KAUR****NAVIN CHAWLA, J. (Oral)**

1. This petition has been filed challenging the Order dated 21.11.2014, passed by the Disciplinary Authority, that is, the respondent no.3 herein, by which the petitioner was found guilty of the charges alleged against him and was punished by reducing his salary by three stages for three years with cumulative effect.

2. The petitioner further challenges the Order dated 09.02.2015, passed by the Appellant Authority, that is, the respondent no.4 herein, and the Order dated 26.05.2015, passed by the Revisional Authority, that is, the respondent no.5 herein, dismissing the appeal and the revision respectively, filed by the petitioner against the Order dated 21.11.2014.



3. The petitioner was charged on an allegation that on 26/27.07.2014, when the petitioner was on duty on Beat between 1800 hours to 0600 hours for O.H.E. security in the middle of Pilakhua – Dasna K.M. No. 120 to 123, criminals cut the contact and catenary wire at 12 different places on the up line in the midst of K.M. No. 121 /11 and 121/17 and stole around 150 meters of wire. Dereliction of duty was, therefore, alleged against the petitioner. The petitioner was found guilty of the said charge and was punished by the above mentioned Order dated 21.11.2014.

4. Aggrieved thereof, the petitioner filed an appeal and thereafter a revision, which were both dismissed by the Impugned Orders dated 09.02.2015 and 26.05.2015, respectively.

5. The learned counsel for the petitioner submits that the Disciplinary Authority has failed to consider that the total area under the supervision of the petitioner was around 3 K.M. and he could not have been present at all places at the same time. She states that the criminals took advantage of the same and committed the theft. She further submits that the punishment awarded to the petitioner is disproportionate as it has been imposed with cumulative effect and as such shall have an impact throughout the career of the petitioner.

6. On the other hand, the learned counsel for the respondents submits that the Disciplinary Authority as also the Appellant and the Revisional Authorities have considered the case on merit and found that it was only a 3 K.M. area which was under the protection of the petitioner wherein the criminals had cut the wire at 12 places and had



stolen 150 meters of wire. He submits that this could not have happened had the petitioner been vigilant during his duty. He submits that as far as the punishment is concerned, the petitioner had earlier been found guilty of dereliction of duty only three months prior to the date of this incident. The petitioner, therefore, did not show any improvement and resultantly, the punishment awarded to him cannot be termed as disproportionate.

7. We have considered the submissions made by the learned counsels for the parties.

8. At the outset, we would remind ourselves that we are not sitting as an Appellant Court against the finding of the Disciplinary Authority, which has been confirmed by the Appellant and Revisional Authorities of the respondents.

9. In the present case, even otherwise, we do not find any infirmity in the finding of facts of the Disciplinary Authority. It was only an area of 3 K.M. which was under the supervision of the petitioner. The wire had been cut at 12 places and around 150 meters of wire had been stolen while the area was under his supervision and watch. Though it may be true that the petitioner could not have been present at the same time on the entire stretch of 3 K.M., however, the criminals having carried out activities at 12 places without being noticed by the petitioner, which clearly shows that he was not diligent in the performance of his duty and it is a case of gross dereliction thereof.

10. This Court by its Order dated 23.01.2019, had also opined that



the finding of the Disciplinary Authority does not call for any interference.

11. On the issue of proportionality of punishment awarded to the petitioner, again this Court can interfere only if the punishment awarded to the petitioner is found to be unconscionable in light of the facts of the case. This Court by its Order dated 23.01.2019, taking into account that the Impugned Orders do not give the reason for the quantum of punishment awarded to the petitioner, had directed the Appellant Authority to pass a reasoned order for the same, by observing as under:

“2. However, the Court finds that no particular reason has been given by the Disciplinary Authority for awarding the penalty of reduction of pay by three stages for a period of three years with cumulative effect. One of the grounds urged by the Petitioner before the Appellate Authority was regarding the disproportionate nature of the penalty. The Court finds that the Appellate Authority or even the Revisional Authority have in their respective impugned orders dated 9th February, 2015 and 26th May, 2015 not specifically dealt with the above issue. They have merely referred to the misconduct itself and held the punishment awarded to be justified.

3. In the circumstances, the Court is of the view that on the aspect of proportionality of punishment, the matter should be placed once again before the Appellate Authority for a fresh consideration keeping in view the past record of the Petitioner, his current conduct and the impact that the punishment is likely to have on his future prospects.

4. Accordingly, the matter is directed to be placed before the Appellate Authority for the



above limited purpose. A fresh order be passed by the Appellate Authority uninfluenced by the earlier order dated 9th February, 2015. The decision be given within eight weeks from today and a copy be placed on record before this Court by the next date.”

12. The Appellant Authority has now passed an Order dated 25.02.2019, which *inter alia* records and observes as under:

“In view of the above the undersigned, being Appellate authority is set to look into the quantum of the punishment awarded to the party charged. The inquiry officer found him (Babrey Singh) guilty of the charges levelled against him. In his defence statement the party charge did not deny the fact of theft of the OHE during his duty hours. He, instead, claimed that the duty assigned to him was against the provision of labour laws and human rights. He even accused the administration of bias and motivated intent. But the fact that OHE was cut at many places and stolen, is clearly established by official documents like Roznamcha. He failed to give any evidence contrary to the above mentioned fact.

As per the order of the learned High Court my scope is limited to the purpose of deciding the quantum of the punishment. The undersigned went through the Character and Service Roll of the party charged . From the entries in the punishment column of the CSR it can be seen that he had been punished with lowering by two stages for two years without cumulative effect in a similar case where lie failed to prevent theft of OHE during his duty hours vide DAR/07-RPF/158/MB/2014 dt-04.04.2014. But that punishment did not bring any change for improvement in his conduct. The current case of negligence took place in month of July 2014 (26/27.07.14) about 03 months after he was punished with minor



punishment mentioned above. It is remarkable that the party charged joined service in the year 2006 and within 08 years of his service such a lethargy and irresponsible attitude sets in him that he, rather than feeling guilty for his failure, in preventing theft, accuses the administration of bias and guilty of violating his human, right. His contention that he was given duty in violation of labour laws, etc is not maintainable, as section 19 of RPF act 1957 clearly provides that such Acts will not be applicable to members of the force.

The previous punishment did not bring any improvement in his attitude towards his duty and that is why he failed to prevent theft of OHE a second time. Having gone through these facts I am of the opinion that he deserves a harsher punishment than simply lowering his pay to 2 stages in existing pay scale.

I believe that lowering his pay by 2 stages for 03 years with cumulative effect in existing scale of pay will act as a good enough deterrent for him to mend his conduct in future. Hence the punishment is awarded accordingly. This lenient view is taken considering his long service ahead and with a belief that it is proportionate to the nature of guilt.”

13. From the reading of the above, it would be apparent that the Appellant Authority has taken into account the previous conduct of the petitioner, wherein he had been punished by reduction for two stages for two years “without cumulative effect” in a similar case wherein he had failed to prevent the theft of overhead electric wires while being on duty. In spite of the punishment and only around three months thereafter, in the present case, he was again found negligent of the same offence. The Appellant Authority, therefore, came to the



opinion that in spite of the imposition of the punishment in the earlier instance, the petitioner has not changed or mended his ways and has remained lethargic and irresponsible on duty. Despite the same, the Appellant Authority reduced the punishment awarded to the petitioner for the present incident to now to be lowering of his pay by two stages for three years with cumulative effect in the existing scale of pay.

14. Given the above facts, we do not find the punishment awarded to the petitioner to be disproportionate and as warranting any interference of this Court in exercise of its power of judicial review.

15. We, therefore, find no merit in the present petition except stating that the Impugned Orders would now be read alongwith the Order dated 21.05.2019 passed by the Appellant Authority and the punishment is to be reduced in accordance with the terms thereof.

16. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 7, 2025/Arya/IK

Click here to check corrigendum, if any