

# SUPREME COURT OF INDIA

Angad Das

Vs.

Union of India

C.A.Nos.1429-1430 of 2010

(Dalveer Bhandari and A.K. Patnaik JJ.)

18.02.2010

## JUDGEMENT

### **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.

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:-

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.

“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 was conducted and thereafter the appellant was compulsorily retired from the service by way of punishment by 2 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 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.”

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:- "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 3 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."

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 4 an unwarranted and arrogant reaction. The order is wholly arbitrary and illegal.”

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:- "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."

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 5 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.

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.

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

11. We also direct that the appellant be paid all the pensionary benefits which have become due and payable to 6 him, with interest at the rate of 9% per annum, within two months from the date of communication of this order.

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.