

ARMED FORCES TRIBUNAL, REGIONAL BENCH, GUWAHATI

3. OA-12 of 2022

Lt Col Surajit Sinha Roy **Applicant**

By legal practitioner for Applicant.
Ashim Chamuah

-Versus-

UOI & Others. **Respondents**

By legal practitioner for Respondents.
P.J.Barman

CORAM:

HON'BLE MR. JUSTICE SUDHIR MITTAL, MEMBER (J)
HON'BLE AIR MSHL BALAKRISHNAN SURESH, MEMBER (A)

ORDER

Justice Sudhir Mittal, Member (Judicial)

At the relevant point in time, the applicant was serving as Second in Command of 70 Engineer Regiment. On 23.03.2018, one Sapper Amit Kumar Gupta shot himself with his service rifle and committed suicide. The incident took place some time in between 0200 hours and 0545 hours on the night intervening 22.03.2018 and 23.03.2018 (23rd early morning). The said person was on Sentry duty near Explosive complex at the time of the incident. Consequently, a Court of Inquiry was convened vide order dated 24.03.2018. Allegedly, the said Court of Inquiry did not find any one blameworthy. However, by placing reliance on the statements made by certain witnesses, a show cause notice dated 30.07.2018 was issued to the applicant on behalf of the General Officer Commanding, 10 Corps. Reply dated 03.09.2018 was filed by the applicant. The same was not found satisfactory and resultantly , General Officer Commanding passed order dated 25.12.2018 conveying his ' Severe Displeasure ' to the applicant on the ground of

failure to ensure compliance with standing orders , being out of touch with day to day functioning of the Unit and failure to put in place adequate checks and balances to ensure compliance with orders and standing instructions. A statutory complaint was preferred against the said order , which has ultimately been decided vide order dated 06.03.2023 , and has been rejected.

2. Learned counsel for the applicant has argued that the Court of Inquiry did not implicate the applicant and thus, no punishment could have been awarded on the basis thereof. Even the Commanding Officer of the Unit did not implicate the applicant while appearing as witness during the course of Inquiry. Moreover, relevant documents having not been provided, principles of natural justice have been violated. Resultantly, the applicant has been unable to bring forth his defence in a proper manner and this has adversely affected his rights. The applicant was undoubtedly the Security Officer of the Unit but no security lapse has taken place. A jawan of the Unit has committed suicide on account of his personal issues . Record indicates that he was in love with some one and she was not reciprocating his feelings, which resulted in the suicide. This fact has been brought out in the Court of Inquiry as well as through a diary maintained by him. Thus, the applicant could not have been blamed for the suicide. Award of ' Severe Displeasure,' consequently, is illegal.

3. Learned counsel for the respondents has submitted that findings of the Court of Inquiry had not been made the basis of award of ' Severe Displeasure. On the basis of statement of witnesses, the competent authority came to a conclusion that the applicant was to blame for lapses in the Unit and thus show

cause notice was issued to him. Before award of ' Severe Displeasure ' necessary procedure prescribed under the law has been followed. Relevant documents of the witnesses in the Court of Inquiry have also been supplied to the applicant . Thus, there is no violation of procedure or the principle of natural justice. The award of ' Severe Displeasure' is an administrative order and should not be interfered with as there is no procedural illegality or irregularity in exercise of powers nor have principles of natural justice been violated.

4. From the record , it is evident that show cause notice dated 30.07.2018 was issued on the basis of evidence recorded during the Court of Inquiry. The applicant was asked to show cause against the failure to ensure certain actions to be taken in accordance with the standing instructions of the Unit and orders issued from time to time. Since the notice was based upon evidence recorded during the course of Inquiry , copies of relevant statements of witnesses were supplied to the applicant and sufficient time was granted to him to file his reply. Thus, argument of violation of principles of natural justice has to be rejected. Documents relied upon by the competent authority were supplied to the applicant and notice to show cause was issued. The same is sufficient compliance with the principles of natural justice. No other statutory Rules or Regulations have been brought to our notice , which may have been violated before passing the impugned order. The impugned order notices that the applicant had failed to ensure the implementation of Unit standing instructions and to put in place a system of checks and balances for the said purpose. It has also been found that he was not in touch with the daily functioning of the Unit. None of these findings have been shown to be perverse. In fact, no arguments in this regard have been raised.

5. It has also been argued that non supply of copies of findings and opinion of the Court of Inquiry was illegal and violative of principles of natural justice. This argument deserves to be rejected on the sole ground that the Army Rules, 1954 do not envisage supply of copies of findings of a Court of Inquiry or the opinion thereof under any circumstances.

6. It has also been argued that award of ' Severe Displeasure ' was a punishment, which resulted in blockage of promotional avenues of the applicant. Thus, the Court of Inquiry could not have been made the basis of imposing the punishment. This argument also deserves to be rejected as there is no legal basis for the same. Reference to Rule 177 of the Army Rules, 1954 is of no use because the said rule pertains to Courts of Inquiry. The provision only defines a Court of Inquiry and states its composition. The Officer competent to assemble the Court is also mentioned therein. It no where states that the Court of Inquiry cannot form the basis of administrative action.

7. It is settled law that Courts can interfere with the administrative action only where there is violation of principles of natural justice or violation of the procedure prescribed by law . Neither of these situations exist in this case. Thus, no interference is called for.

8. It may be that the applicant was not personally responsible for the suicide of the Jawan of the Unit, however, the same would not absolve him of his

responsibility to ensure implementation of the Unit's standing instructions and daily orders. Had the same been done, the incident might not have taken place.

For the reasons afore stated , OA has no merit and is dismissed.

Oral prayer for grant of Leave to Appeal is rejected.

(Air Mshl Balakrishnan Suresh)
MEMBER (A)
13th October, 2023.

(Justice Sudhir Mittal)
MEMBER (J)

AKS