

Before Rajiv Narain Raina, J.

JAGBIR SINGH CONSTABLE NO. 880/CID---Petitioner

versus

STATE OF HARYANA AND OTHERS - Respondents

CWP No. 14454 of 2013

July 10, 2013

Constitution of India, 1950 - Art. 226 - Service Law - Discrimination - Regular dog handler on sanctioned leave - Substitute Dog Handler - Death of dog due to negligence of Substitute Dog Handler - Major punishment imposed on the incharge and substitute dog handler - In revision punishment reduced to stoppage of two increments imposed on in-charge and major punishment of stoppage of four increments on Dog Handler - Challenged in writ petition by Jagbir Singh the incharge - Duty of care - Negligence - Punishment not disproportionate - The two not similarly situated as roles are not identical - Writ Petition dismissed.

Held, that the question which arises for determination is whether the roles attributed to the two are similar and identical in degrees of negligence in the circumstances which led to the death of Rana. In answer to this question, I think that a far greater duty was cast on the Dog Squad In-charge -the petitioner than EHC Jagmal Singh. Jagmal Singh had no option but to act on the command of his superior. But on the other hand, the In-charge of the Dog Squad had several options in choosing a suitable dog handler in the absence of the dog's master handler who was on sanctioned leave. The degree of negligence in terms of responsibility is far greater in the case of the In-charge Dog Squad than the person chosen by him to look after the dog in the absence of the principal caregiver. The argument of discrimination is, therefore, rejected.

(Para 8)

Dr. Suresh Kumar Redhu, Advocate, *for the petitioner.*

RAJIV NARAIN RAINA, J.

(1) The petitioner is posted in the Police State Crime Branch (II) as Incharge of the Dog Squad. There was dog named Rana who was part of the Dog Squad maintained by the police. The police dog handler of Rana proceeded on sanctioned leave and instead the petitioner as Head of the Dog Squad deputed Constable Jagmal Singh to be care-giver of the dog in his absence. He was given charge of the dog on 27.01.2007.

(2) There are instructions dated 25.02.2007 issued by the Superintendent of Police, State Crime Branch (II) which require fortnightly medical check ups of dogs assigned to the unit and caregivers have to take their weight periodically and report accordingly to the Superintendent of Police.

(3) Substitute dog handler Jagmal Singh did not adhere to the instructions and failed to send medical and weight reports of the dog to the Superintendent of Police. The dog died on 7/8.05.2007. The autopsy was conducted by Dr. N.K. Mahani, Veterinary Surgeon, Veterinary Hospital of village Uchha Samana, Karnal who found that the dog was not fed for three days due to which gas filled his stomach leading to death by congestive heart failure. The cause of death mentioned in the post mortem report.

(4) A charge-sheet was issued to the petitioner and the EHC Jagmal Singh for negligence in performance of duties in not feeding the dog on time nor getting it medically examined or weighed. Neither of the reports were sent. Lack of care was alleged. Earlier a show cause notice was issued to the petitioner. He filed reply in defence. The reply was not found satisfactory. Regular inquiry was instituted. In the regular inquiry that followed the charges were proven. On a consideration of the reply, the charge and the findings recorded in the inquiry report, the Superintendent of Police imposed major punishment for stoppage of four annual increments with permanent effect on both the delinquents i.e. the petitioner and Jagmal Singh. The petitioner appealed to the Deputy Inspector General of Police (Crime) Haryana, Panchkula which failed by order dated 31.01.2008. In the further revision to the DGP-cum-Revisional Authority it was held that due procedure at the inquiry was followed and it does not suffer from any legal infirmity. The Revisional Authority found that the cause of death of 'Rana' as disclosed in the autopsy report could not be connected with handling or lack of diet. However, the petitioner being In-charge of the unit or on duty to ensure

proper care of the dog he should have assigned this duty to someone else in his absence of the regular handler. Taking a lenient view he reduced the major punishment to minor and inflicted stoppage of two increments with temporary effect in order to give the petitioner a chance to reform. Against the DIG order, the petitioner filed a revision before the Addl. Director General of Police, Administration which was rejected.

(5) Dr. Suresh Kumar Redhu, learned counsel appearing for the petitioner assails these orders. He submits that his client was made a scapegoat and pleaded that the post mortem report was obtained under pressure of Dr. N.K. Mahani, Veterinary Surgeon, Veterinary Hospital of village Uchha Samana, Karnal who submitted the report under pressure of Superintendent of Police, State Crime Branch, Madhuban and these issues have not been considered.

(6) Dogs by nature are sensitive animals and friends of man having been domesticated thousands of years ago. Police dogs require special handling, care and love. A Dog Squad Head is expected to know not only the nature and personality traits of each of his dogs but the sensitivity of each dog handler. Each dog being different in character and individual natures the in-charge or caregiver owes a greater duty to select from amongst dog handlers such as are most compatible with the individual nature of each canine member of the dog squad when the regular dog handler is on leave. Even if we are dismissive of the question of the post mortem report, the Director General of Police-cum-Revisonal Authority has inflicted reduced punishment, if not on account of handling or lack of diet but on selection of a friend of the dog in the absence of his master dog handler. This appears to be the articulate premise or the pith and substance of the charge.

(7) The next issue raised by Dr. Redhu is that the co-accused Jagmal Singh has had his punishment of stoppage of four increments with permanent effect reduced to stoppage of two increments with temporary effect so as to give him a chance to reform. The EHC dog handler Jagmal Singh has got off lightly and the punishment meted out to the petitioner is disproportionate to the alleged misconduct apart from being discriminatory. There should be non-discrimination even in the matter of award of punishments between two similarly situated persons in the same transaction.

(8) The question which arises for determination is whether the roles attributed to the two are similar and identical in degrees of negligence in the circumstances which led to the death of Rana. In answer to this question,

I think that a far greater duty was cast on the Dog Squad In-charge -the petitioner than EHC Jagmal Singh. Jagmal Singh had no option but to act on the command of his superior. But on the other hand, the In-charge of the Dog Squad had several options in choosing a suitable dog handler in the absence of the dog's master handler who was on sanctioned leave. The degree of negligence in terms of responsibility is far greater in the case of the In-charge Dog Squad than the person chosen by him to look after the dog in the absence of the principal caregiver. The argument of discrimination is, therefore, rejected.

(9) Resultantly, I find no intrinsic merit in this petition sufficient to interfere in the quantum of punishment chosen and inflicted by the administrator.

(10) The petition merits dismissal.

(11) Ordered accordingly.

S. Gupta