

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment Reserved On: 22nd March, 2011*
Judgment Delivered On: 24th March, 2011

+ W.P.(C) No.8439/2010

M.MEENA KUMARI Petitioner
Through: Ms.Rekha Palli, Advocate with
Ms.Punam Singh and Ms.Amrita
Prakash, Advocates

versus

UNION OF INDIA & ORS. Respondents
Through: Mr.Neeraj Choudhary, CGSC

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J.

1. The petitioner, who we are informed has Post-Graduate Degree in Mathematics followed by a Masters Degree in Business Administration appeared at the competitive examination conducted by the Staff Selection Commission for recruitment of Sub-Inspectors under the Central Para-Military Forces and successfully cleared the selection. She was allocated to the Central Industrial Security Force on 23.12.2006 and prior thereto she had served in Central Reserve Police Force as an Assistant Sub-Inspector

from 16.2.2001 to 19.12.2006.

2. Joining CISF the petitioner was posted at Bangaluru on 26.4.2008 and was staying at the Lady's Hostel of which Insp.Indu M.Kumar was the In-charge.

3. As per the petitioner Insp.Indu M.Kumar used to allow her husband to stay with her at the Lady's Hostel which was contrary to the rules and when the Commandant learnt about the same and made discreet inquiries, the petitioner told the truth to the Commandant and unfortunately for her, Insp.Indu M.Kumar learnt about the same and hence became vindictive towards her. The Company Havaldar Major Padma Bane acted under the dictates of Insp.Indu M.Kumar and spread a canard that petitioner used to indulge in excessive smoking and drinking in the Lady's Hostel room allotted to her and as a result thereof the petitioner was under a mental stress. She wrote a letter on 19.1.2009 to the Commandant informing that due to rumours being spread about her character, she was extremely disturbed. She requested the Commandant to investigate the rumours spread about her. She highlighted that she was extremely depressed on her character being brazenly talked about. The respondents have not disputed said letter being received by the Commandant. The petitioner was not even given a hearing by the Commandant and thus she wrote another letter dated 31.1.2009 to the Commandant in which she requested that the Commandant should urgently look into the matter. She sought 5 days' earned leave with permission to meet the DIG at Chennai. The respondents admit receipt of the said letter as

also the fact that no action was taken thereon. On 26.2.2009 the petitioner submitted another letter to the Commandant with an urgent request to spare some time for a personal interview with her. Unfortunately, the Commandant ignored the said letter, receipt whereof has not been denied by the respondents.

4. On 12.3.2009 the Commandant issued a written warning to the petitioner informing that after he had received petitioner's letter dated 19.1.2009 he conducted a preliminary inquiry through the Assistant Commandant B.S.Dongo and Lady Insp.V.D.Mini who have reported that petitioner's complaint against Insp.Indu M.Kumar was baseless and that the room-mates and other inmates of the Lady's hostel have reported that petitioner was found smoking cigarettes in the balcony of her room and had felt alcohol like smell coming from the petitioner's room. The petitioner was warned that since the Lady's barrack was a public place she was supposed to be careful and should not smoke or drink in the barrack.

5. It is not in dispute that the petitioner was not associated at the preliminary inquiry supposedly conducted.

6. The very next day i.e. on 13.3.2009 the petitioner requested to be supplied with the statements of the witnesses recorded at the preliminary inquiry. Nothing was supplied to her. On 13.3.2009 she addressed a letter to the Director General CRPF requesting that she be transferred and preferably to Kolkata. The request went unheeded. On 15.3.2009 she sought an interview from the Commandant expressly writing that the events at the unit had caused her

extreme mental stress. The Commandant paid no heed to the letter dated 15.3.2009.

7. On 16.3.2009 the petitioner was found in a state of stupor and finding something amiss was immediately rushed to the Baptist Hospital Bangaluru. Strips of tablets Nitrest and Crocin were found in her pockets. The petitioner was given a stomach wash and she told the doctors that she had taken two 5 mg tablets of Nitrest and two tablets of Crocin and denying having attempted to commit suicide informed that she had been feeling stressed and as a reason thereof could not sleep and thus Dr.Mangal Manjhri had prescribed Nitrest to be taken by her. We note that Nitrest is a medicine prescribed to induce sleep.

8. What does the petitioner have to say about the events which preceded the unfortunate incident of the petitioner having acted indiscreet? The petitioner makes averments in para 7 of the writ petition which reads as under:-

“7. That as the Petitioner was very depressed because of the false allegations leveled against her and since none of her senior officers were willing to even listen to her on 16.3.2009 she again made a futile attempt to get an interview with the Commandant for which she waited from 9.30 A.M. to 5.30 P.M. and therefore in the evening. She in Order to get some sleep took 2 painkiller tablet alongwith 2 tablets of Nitrest 5 mg (which had been prescribed to her by a Registered Practitioner on 21.10.2008 in her home town Jamshedpur) but perhaps due to exhaustion and due to sleeplessness for last 3-4 days and perhaps a slightly excessive dose of 2 tablets, the Petitioner became unconscious and was taken to Baptist Hospital in Bangalore where the Hospital Authorities immediately informed the Police Authority

of Amruthahali who came to the Hospital and recorded her statement. A true copy of the Medical Prescription dated 21.10.2008 is annexed as **Annexure P-5.**”

9. In the counter affidavit filed have replied to the same, in para 3 of their counter affidavit as under:-

“3. It is respectfully submitted that vide letter dated 16.3.2009, the petitioner expressed her wish to meet the Commandant but he meeting could not take place because the Commandant was pre-occupied with other duties at the airport. It is pertinent to mention that on the same day, it was reported that the petitioner tried to commit suicide and consumed some sleeping pills Zolphadin (Nitrest 10mg) tablets. The empty strip of the said medicine recovered from her room at ladies accommodation. The petitioner was immediately attended and was taken to the Baptist Hospital, Bangalor by Lady HC/GD Padma Bane and Lady SI Ravi Kiran. It is most humbly submitted that a note dated 16.3.2009 was also recovered from her room. The contents of her letter dated 19.1.2009 read with contents of note dated 16.3.2009 reveal that Lady SI/Exe M Meena Kumar attempted to commit suicide in order to pressurize the department. That the petitioner while giving statement to the police on 17.03.2009, claimed that she had taken an extra dose of pills due to depression and to induce sleep. After the treatment, L/SI Meena Kumari was discharged from hospital on 18.03.2009. All necessary help were extended to her during this period by the Department. Copy of the discharge summary is annexed as **Annexure R-1/C.**”

10. It is apparent that the respondents have admitted that the petitioner waited whole day long to meet the Commandant, who unfortunately could not take out any time for her.

11. On 17.3.2009 the petitioner gave a written version

of the medicines taken by her. She informed as under:-

“To
The Police Inspector
Amruthnahalli Police Station
Bangalore City

FM

M.Meena, D/o MV Ramana, aged 28/F
Add.- 103, Amruthnahalli Sri Auna Residency

Respected Sir,

Sir, in the above address I have myself with my room-mates with SI/Exe Bhuneshwari, I am working in CISF as Si/Exe. I am suffering from my headache since 3-4 days and I want to take interview with my Comdt. Sir on 16.3.2009 but due to administrative reason he was not present there. Then after I fed up with my problem. For sound sleep I took 4-5 tablets at 8;30 p.m. of sleeping then I felt unconsciousness. Thereafter Hostel warden CHM took me in the hospital. Now I am in well condition. This incident is unexpected.

Sir, I want to talk my respected Sir to tell my problem physically as well as mentally and I sure that he will help me definitely.

I don't want give any complain regarding this incident (taking overdose of sleeping tablets)

Thank you,

Yours faithfully

Sd/
M.Meena, SI/Exe
CISF BIAL Bangalore”

12. Relevant would it be to note that on 18.3.2009 the petitioner was discharged from the hospital at Bangaluru and it

was recorded in the discharge summary that the petitioner was under multiple stress and tension and was having a disturbed sleep. That she had no psychiatric disturbance and that as told to the doctors, the petitioner consumed excessive dose of medicine as she claimed not being able to sleep for the last 4 days and having severe headache.

13. Noting that when she was brought to the hospital at Bangaluru, since it was an apparent case of attempted suicide, a penal offence, the local police was informed. Petitioner's statement was recorded and relevant medical papers were seized by the police and indisputably the matter was closed by the local police and prima facie it can be said that it would not be a case of attempted suicide, but an act of indiscretion in consuming excessive medicine, but not so excessive as could be life threatening.

14. In spite thereof, on 27.4.2009 a memorandum was issued alleging 3 charges against the petitioner as under:-

“ARTICLE-I

“On 16.03.2009, at about 2030 hrs, CISF No.062230104, Lady Sub-Inspector M.Meena Kumari of CISF BIA, Bengaluru tried to commit suicide by consuming sleeping pills to pressurize the senior officers to become undue sympathetic towards her. The above said act on the part of Lady Sub Inspector M.Meena Kumari tantamount to gross indiscipline and unbecoming of a member of the Force.” Hence the charge.

ARTICLE-II

“Gross indiscipline and misconduct in that, CISF No.062230104, Lady Sub-Inspector M.Meena Kumari of

CISF BIA, Bengaluru misbehaved with other lady personnel staying in ladies barrack and intimidated them to be overly friendly with her and threatening them that if they did not do so, she will commit suicide." Hence the charge.

ARTICLE-III

"Gross indiscipline, in-subordination and unbecoming of a member of the Force, in that, CISF No.062230104, Lady Sub-Inspector M.Meena Kumari of CISF BIA, Bengaluru on 19.01.2009 had intentionally tried to misguide her senior officers by making false allegations against her senior, Lady Insp/Exe Indu M.Kumar to conceal her faults." Hence the charge."

15. Examining 9 prosecution witnesses and 3 as court witnesses and 1 as defence witness, the Inquiry Officer submitted a report dated 14.10.2009 which was forwarded to the petitioner and in respect whereof she gave a written response on 2.11.2009. The Disciplinary Authority exonerated the petitioner of charges 2 and 3 but held her guilty of charge No.1 by holding that evidence established that petitioner tried to commit suicide to pressurize senior officers to be unduly sympathetic towards her, which act amounted to gross indiscipline. Vide order dated 23.11.2009, holding as aforesaid, the Disciplinary Authority levied penalty of reducing petitioner by one stage in the pay for a period of 3 years with cumulative effect.

16. Petitioner preferred an appeal against the penalty levied. On 5.3.2001 the Appellate Authority issued a show cause notice to the petitioner prima facie recording that the penalty levied was inadequate and required the petitioner to

show cause as to why the penalty be not enhanced to one of reduction in pay by 3 stages for a period of 3 years with permanent effect. The petitioner submitted a reply thereto on 9.4.2010. Rejecting the reply filed, the Appellate Authority, vide order dated 21.4.2010 levied the penalty proposed to be enhanced in the show cause notice dated 5.3.2001. Revisional remedy availed by the petitioner met with no success when vide order dated 8.9.2010 the revision petition filed by the petitioner against the Appellate Order dated 21.4.2010 was dismissed.

17. This has necessitated the petitioner filing the above captioned writ petition in which she questions the order dated 23.11.2009, 21.4.2010 and 8.9.2010 passed by the Disciplinary, Appellate and Revisional Authority respectively.

18. Since the petitioner has not been found guilty of the second and the third charge it is apparent that there is no evidence of the petitioner intimidating any lady personnel under threat that if they do not become friendly with her she would commit suicide. Also, there is no evidence that the petitioner intentionally tried to misguide senior officers by making false allegations against Indu M.Kumar to conceal her fault.

19. In fact we find that 3 witnesses of the prosecution have supported the version of the petitioner that Insp.Indu M.Kumar had tried to influence them and Indu M.Kumar had even threatened the petitioner when she learnt that the petitioner had confirmed to the superior authorities that husband of Indu M.Kumar used to stay in the women's barrack.

20. The question would be, whether the CISF officials and in particular the Commandant of the Unit has remained guilty of not paying heed to the cries of distress of the petitioner and what would be legal consequence thereof.

21. In law, a party would be liable for the consequences of not reasonably foreseeing the result of its inaction.

22. Facts noted by us establish that since 19.1.2009, the petitioner made enumerable attempts to reach out to the Commandant as also the Director General CRPF and even sought an appointment with the DIG concerned. The representations of the petitioner dated 19.1.2009, 31.1.2009, 26.2.2009 and 15.3.2009 show the stress which was being faced by the petitioner on account of rumours being spread about her and she was desperately seeking an appointment with the Commandant. That on 16.3.2009 from 9:30 AM to 5:30 PM she waited for the Commandant to give her an interview establishes the direness of the situation and indeed, we find that the Commandant of the Unit has failed to discharge the duty of reasonable care i.e. the duty to give audience to his subordinate officer who was wanting an urgent audience as the matter was getting out of hand. We highlight that petitioner's assertions in para 7 of the writ petition where she has brought out the urgency of the matter and what led her to take an overdose of Nitrest has been explained have not been denied, rather have been admitted by the respondents.

23. The medical evidence does not show that the petitioner took such overdose of Nitrest and Crocin as could be fatal. As explained by the petitioner, she was so overstressed

and since she could not sleep for the previous 4 nights, in her own wisdom she doubled the dose of medicine. As against 1 tablet of Nitrest, she consumed 2. It thus cannot be said that the petitioner attempted to commit suicide.

24. Assuming that the petitioner did so. It is plain obvious that a decision taken by a person to ends one's life is the obvious and direct result of the immediacy of a present sense of hopelessness overwhelming the grudging eventualities of a future hope. When the present becomes blank and the future presents itself as something black, infinite and unbearable, in the cloudy depths of the troubled mind death emerges as an escape route i.e. the only release from the direness of the situation.

25. Thus, relationship between life and death becomes reversed: Life becomes a problem and death emerges as the freedom.

26. A suicide is an act of colossal waste and willful destruction of life that it compels the society to try and pin responsibility on someone and in this endeavour one is left struggling to attach meaning to an act expressly designed to eliminate it. This is the society's way of affirming purpose to life and the society's faith in its preciousness. This explains the irony that if the suicide attempt ends in a failure, the person himself is prosecuted, but if it succeeds, we look to others.

27. Thus, it is apparent that every suicide asks questions of those immediately connected to the event, if not the society at large.

28. Facts of the instant case brings out that the so-called attempted suicide act of the petitioner was actually the result of, if we may use the expression '*Unit disease of indifference*'. Her letters to which we have noted gave enough warning signals to the Commandant and the other superior officers that there was something fundamentally wrong in the way the Unit was being commanded and it was obvious that the signals were telling that unless remedial action was taken, sooner or later, some day and somewhere, the petitioner would have to pay the price.

29. We hold the superior officers completely responsible for what has happened and in law, it has to be held that the Commandant had failed in the duty to give an audience to the petitioner and intervene in the matter to ensure that the petitioner was not subject to a slander campaign. Any prudent person could reasonably foresee that if the petitioner who was sending out distress signals was not given a patient hearing the likely fallout would be an extreme step which the petitioner could take and thus the fault for whatever has been done by the petitioner is not hers but that of the Commandant.

30. It is true that an act of suicide would normally be a matter of discretion for the reason it can be said that the person concerned had a choice, but there may be situations where a person is virtually left with no choice for example where the tormentors by way of a systematic campaign drive a person to commit suicide by leaving no other choice.

31. The facts of the instant case bring out that the

Commandant of the Unit could reasonably be fastened with the liability of not having ensured the duty to listen to the petitioner and hence in law it has to be held that the action of the petitioner could be reasonably foreseen when she wrote the various letters and by not setting the Unit in order, the organization cannot shift the blame on to the shoulders of the petitioner.

32. We allow the writ petition and quash the impugned order dated 23.11.2009, the order dated 21.4.2010 as also the order dated 8.9.2010 and absolve the petitioner of the charge levied against her.

33. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(SURESH KAIT)
JUDGE

MARCH 24, 2011
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