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Central Administrative Tribunal
Principal Bench

O.A. No. 1041 of 2001

New Delhi, dated this the 17 April, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

1. Anurag Agarwal, IPS,
S/O Shri S.R. Agarwal,
Presently Posted as Sub.-Div.,
Police Officer Sadia,
Dist. Tinsukhia, Assam.Applicant
(By Advocate : Shri V.K.Garg)

VERSUS

1. Union of India,
through the Secretary,
Ministry of home Affairs,
North Block, New Delhi-

2. The Director,
S.V.P. National Police Academy,
Hyderabad.Respondents
(By Advocate : Shri Madhav Panikar)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated 24.9.99 (Annexure V), giving him 100 negative marks for the lapse of pointing a .303 rifle above a fellow Officer Trainee's head in an unsafe manner and firing blank rounds, because that fellow OT did not support a call to boycott the lunch on 12.9.99 protesting against the scheduling of training activities on a holiday.

2. Pleadings reveal that applicant is an IPS probationer of 1998 (51 RR) batch who joined National Police Academy, Hyderabad on 28.12.98 for Phase-I basic professional training for 44 weeks from 28.12.98 to 31.10.99. A training module on Field

Craft and Tactics was organised for their probation from 11.9.99 to 13.9.99. During the module on 12.9.99 all the 88 probationers who were present, boycotted the lunch to protest against the training activities being scheduled on a holiday. Two probationers namely Shri Anirban Ray and Shri Anshuman Yadav decided not to join the others in this misconduct and defying the peer pressure, they started having their lunch. After a short while the others were also persuaded to have lunch and carry on with the module.

3. Later, in the evening of 12.9.99 Shri Anirban Ray filed a complaint (Annexure 3) addressed to the Director National Police Academy that during conduct of field exercises at about 6.30 pm while he was walking with applicant and 4 other probationers, all of whom were carrying .303 rifle with blank rounds, applicant approached him and asked him why he had eaten lunch that day. Applicant then allegedly threatened Shri Ray, standing barely 2-3 feet away. Shri Ray states that he repeatedly asked applicant to keep down his rifle, but applicant refuse to do so, and then applicant cocked his rifle, pointed it towards Shri Ray's head and then fired a round which passed a few inches from Shri Ray's right ear. Shri Ray further states that he asked one of the other probationers Shri V.K.Singh who was witnessing this incident, to seize applicant's rifle but Shri V.K.Singh refused. Thereupon applicant climbed a small wall nearby and picked up his rifle and fired another round at Shri Ray while threatening him. Upon

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this Shri V.K.Singh took the rifle away from applicant's hand. Shri Ray states that thereupon he immediately proceeded to camp to report the matter to the Asstt. Director, National Police Academy.

4. The Asstt. Director NPA in his enquiry report dated 16.9.99 (Annexure 6) stated that applicant was angry with Shri Ray for not having supported the batch in boycotting lunch. To express his displeasure, and scare Shri Ray, he had fired off a blank round in his rifle, though not at Shri Ray directly, but from a range of 7-8 feet, with the rifle pointed above Shri Ray's head. This was not a completely safe way of firing even a blank round on the part of applicant and could have caused serious injury to Shri Ray. This action on applicant's part serious breach of discipline and misconduct which should be dealt with seriously.

5. On receipt of this report of Asstt. Director NPA sought that applicant's explanation vide memo dated 17.9.99 (Annexure 4).

6. Applicant submitted his explanation on 20.9.99 (Annexure 5) in which he denied the allegation.

7. In the light of the findings contained in the Asstt. Director's enquiry report, applicant's explanation was rejected, and having regard to the provision of Rule 6.2(b) IPS (Probation) Rules, 1954

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which provides that at the end of the period of training at the National Police Academy, the Director shall assess the record of each probationer by awarding him marks out of a maximum of 400 marks as he may in each case think fit, the Director decided to issue impugned order dated 24.9.99 whereby the penalty of 100 negative marks was imposed on applicant in regard to the aforementioned incident. While doing so the Director kept in view para 5 of the Chapter on "Assessment and Examination" in the Handbook for IPS Probationers (taken on record) which empowers the NPA Authorities to give negative marks in case of deviant behaviour out of total of 400 marks available under Director's Assessment, and it has been made clear therein that the scope of negative marks can extend upto 100% depending upon the gravity of deviance.

8. The main ground advanced by applicant in the OA is that the impugned order dated 24.9.99 has affected his inter se seniority with the batch, and the same could not have been issued without observing the mandatory procedure prescribed under the Rules and without obtaining prior advice of the UPSC. Applicant also contends that he was neither afforded sufficient opportunity to defend himself nor was he issued a show cause notice for the proposed punishment or given an opportunity to represent against the proposed punishment.

9. We have considered these contentions carefully.

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10. We note that the IPS (Probation) Rules 1954 have the protection of Article 309 of the Constitution and Rule 6.2 (6) thereof specifically provides that 'at the end of the training period at the NPA the Director shall assess the record of each probationer by awarding him marks out of a maximum of 400 marks as he may in each case think it.' We further note that para 5 of the Chapter on "Assessment & Examination in the IPS Probationers Handbook which is supplied to all probationers ^{on joining} ~~joining~~ the NPA, empowers the NPA authorities to give negative marks in the case of deviant behaviour, out of a total of 400 marks under Director's Assessment, which may extend to 100% depending on the gravity of deviance.

11. It cannot be denied that applicant's conduct was deviant, and applicant cannot also complain that he was not given an opportunity to explain his conduct, because his explanation was called for, and it was only after his explanation was considered and rejected that the 100 negative marks were awarded.

12. As the Rules specifically provide for 400 marks to be awarded under Director's Assessment and the instructions contained in the IPS Probationers Handbook thereunder specifically provide for negative marks to the extent of 100% in case of deviant behaviour, in our considered opinion respondents' action in giving him 100 negative marks for his lapse cannot be legally faulted.

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13. The OA therefore warrants no interference. It is dismissed. No costs.

S. Raju

(Shanker Raju)
Member (J)

S.R. Adige

(S.R. Adige)
Vice Chairman (A)

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