

Central Administrative Tribunal Jammu Bench, Jammu



T.A. No.6379/2020
(SWP No.1627/2003)

Monday, this the 1st day of February, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

1. Mrs Rafiq Bano W/o late Ghulam Mohammad War, R/o Batapora, Tehsil Handwara, District Kupwara, Age 40 years.
2. Ruqaya Bano D/o late Ghulam Mohammad War, R/o Batapora, Tehsil Handwara, District Kupwara, age 15 years 9th class student.
3. Shahbaz Ahmad S/o late Ghulam Mohammad War, R/o Batapora, Tehsil Handwara, District Kupwara, Age 10 years.
4. Shaista Bano D/o late Ghulam Mohammad War, R/o Batapora, Tehsil Handwara, District Kupwara, Age 8 years.

..Applicants

(Mr. Moulvi Aijaz Ahmad, Advocate)

VERSUS

1. State of Jammu and Kashmir through Addl. Chief Secretary, Home, Civil Secretariat, Jammu/Srinagar.
2. Director General of Police, J&K Srinagar.
3. Deputy Inspector General of Police (DIG), South Kashmir Range, Anantnag.
4. Senior Superintendent of Police, District Pulwama.
5. Dy. Superintendent of Police, District Pulwama.
6. SHO P/S Zainapora, Tehsil Shopian.

..Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

ORDER (ORAL)**Mr. Justice L. Narasimha Reddy:**

The applicant (Ghulam Mohammad War) was working as In-charge of Guard Post Nadimarg Zainpora, in the year 2003. During the intervening night of 23rd - 24th March 2003, some unidentified persons are said to have forcefully entered the guard room of the Post, took away all the arms and ammunitions along with wireless set, and after disarming all the guard persons, they had dragged out the members of the Hindu community in the village and killed 24 of them, including the male, female and children. The militants are said to have fled away with the arms and ammunitions thereafter. It was alleged that none of the personnel in the Guard Post have reacted to such an incident and that they failed to discharge the duties assigned to them.

2. The applicant (Ghulam Mohammad War) and other persons were issued charge memo in that behalf. A criminal case was also filed vide FIR No.24 of 2003. Stating that the applicant did not respond to any notice, nor did he participate in the inquiry, the report was submitted holding that the charges were held proved. At a later stage, the applicant filed a representation on 28.03.2003 alleging that he was not permitted to participate in the inquiry and pleaded not guilty. Taking the same into account, the Disciplinary Authority passed an order dated 29.08.2003 dismissing the applicant from service. Feeling

aggrieved by the order of dismissal, the applicant, i.e., Ghulam Mohammad War filed SWP No.1627/2003 before the Hon'ble High Court of Jammu & Kashmir. During the pendency of the SWP, Ghulam Mohammad War died and his legal representatives, being the wife (Rafiq Bano), two daughters and one son, came on record.



3. The SWP has since been transferred to the Tribunal in view of the re-organization of the State of Jammu & Kashmir and re-numbered as T.A. No.6379/2020.

4. Today, we heard Mr. Moulvi Aijaz Ahmad, learned counsel for applicants and Mr. Sudesh Magotra, learned Deputy Advocate General.

5. Even a cursory look at the record discloses that ghastly incident that occurred in the intervening night of 23rd and 24th March, 2003. It appears that taking into account, the serious threat perception in the locality, a Guard Post was arranged at Nadimarg Zainpora and the applicant was made In-charge thereof. It was his duty to ensure that the Post is properly protected and thereby, the residents are also extended the proper protection.

6. The narration in the order discloses that the unidentified persons have simply walked into the guard room, took away the arms and ammunitions, pulled out the persons of a community and killed all of them. There cannot be a better instance of



dereliction of duty, than this. The applicant did not respond to the summary of charge, nor did he participate in the inquiry. At a later stage, he came with a plea that he was not permitted to take part in the inquiry. The disciplinary authority did not accept that contention. The applicant was placed under heavy obligation to protect the lives of the citizens and the lapse, on his part, was so serious and costly, that as many as 24 persons came to be killed.

7. We do not find any merit in the T.A. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

February 1, 2021
/sunil/vb/ankit/ns