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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

QA No. 2410 of 2002

New Delhi: this the 25th September, 2002

HON'BLE Mr. JUSTICE V.S. AGGARWAL, CHAIRMAN,  
HON'BLE MR. B.N. SOM, VICE-CHAIRMAN (A)

Ex. Constable Abhey Singh,  
No. 1461/S.D., 3969/DAP,  
S/o Shri Bharat Pd. Singh,  
R/o Village and PO Rulhi,  
Distt. West Champaran,  
(Bihar) .....Applicant.

(By Advocate: Shri R.K. Singh.)

Versus

1. Addl. Commissioner of Police,  
South District,  
New Delhi-1

2. The DCP Vigilance,  
DE Cell and Computer Cell,  
IO,  
New Delhi-1 .....Respondents.

ORDER (ORAL)

B.N. SOM, Vice-Chairman (A)

This is an application under Section 19 of the Administrative Tribunal Act, 1985 against the order passed by the appellate authority dismissing the applicant from service.

2. The applicant has come before the Tribunal in a revision petition on the advice of Commissioner of Police, Delhi before whom he had earlier submitted a revision petition against rejection of his appeal by the appellate authority. The said advice of the Commissioner of Police has been submitted at Annexure-F to the petition.

3. The facts of the case are as follows;

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The applicant Constable Abhey Singh No. 1461/SD, 3969/DAP was charge sheeted under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980 and a copy of allegations levelled against him was also served on him. In the summary of allegations, it was stated that the applicant while on Santry duty at about 9.30 a.m., on 15.1.97, at the main gate of DCP/SD Office Complex, stopped official car of Addl. DCP-I/SD and entered into an altercation with the driver of the Staff Car. It was also alleged that the applicant had assaulted the driver of the staff car, aimed his SAF at the chest of the driver, abused him and hit him on the forehead. HC Udai Raj Singh No. 1061/Com. and other office staff present there intervened and controlled the situation. It was also alleged that the applicant continued to shout and uttered abusive language. This act on his part was considered to be gross misconduct, unbecoming of a police officer which rendered him liable for departmental action punishable under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980.

4. It is not denied that the applicant was provided with the list of witnesses and documents with the help of which the Disciplinary Authority sought to prove the allegations. The Disciplinary Authority appointed an Enquiry Officer to enquire into the said allegations against the applicant. The Enquiry Officer submitted summary of allegations, list of witnesses and list of documents relied upon to the applicant on 1.8.97. The Enquiry Officer had examined eight prosecution witnesses in the presence

of the applicant who was also given opportunity to cross-examine prosecution witnesses. After the completion of the examination of prosecution witnesses, the Enquiry Officer framed charge against the applicant and served a copy of the same on him on 10.9.97. It is stated that while the applicant did not plead guilty to the charge he failed to produce any witness in defence.

5. The Enquiry Officer after assessing the statements of prosecution witnesses and other evidence on record produced during the course of enquiry, submitted his findings to the Disciplinary Authority holding that the charge framed against the applicant was proved. The Disciplinary Authority after considering the report of the Enquiry Officer accepted the findings of the Enquiry Officer. After considering the facts and circumstances of the case and the evidence produced during the enquiry, the Disciplinary Authority imposed the penalty of dismissal from service with immediate effect. Being aggrieved by this order of punishment, the applicant filed an appeal against the order of the Disciplinary Authority and the appellate authority after taking into account the totality of the seriousness of charge, grounds of appeal and the evidence brought on record affirmed the punishment awarded by the Disciplinary Authority and rejected the appeal. It is against this appellate order that the applicant has come up before the Tribunal in a revision petition.

6. The learned counsel for the applicant pressed

the following grounds;

- a) That the Disciplinary Authority and Appellate Authority failed to appreciate that on the date of incident, the applicant was a patient of "Insommia" and that he was not in a position to behave in an appropriate manner.
- b) That the Disciplinary Authority/Appellate Authority failed to appreciate that the applicant could not defend his case due to his ill-health and that he was not aware of supply of the copies of the statements of the prosecution witnesses.
- c) That the Disciplinary Authority failed to appreciate that the punishment was excessive taking into consideration the gravity of the offence.

7. We have given our anxious thoughts to the grounds adduced by the petitioner in his revision petition.

8. From the facts and circumstances of the case, it is apparent that the applicant was given full opportunity to defend his case before the enquiring authority. The plea that the act of misconduct that he committed on 15.1.97 while on duty was on account of his ill-health and that he was suffering from "Insommia" was duly considered by the Appellate Authority. But the said plea was rejected by the appellate authority on the ground that the appellant/applicant could not produce any medical evidence to substantiate his defence

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and the medical papers submitted by the appellant from the hospital were with regard to his medical treatment he had received after dismissal from service. It has also been noted by the appellate authority that the applicant did not appoint any defence assistant inspite of being reminded repeatedly by the Enquiry Officer and for this failure the prosecution could not be held responsible.

9. The learned counsel for the applicant argued that the punishment meted out to the applicant is harsh and far excessive in nature in relation to the offence committed by him and , therefore, the applicant was entitled to relief. The charge against the applicant which has not been denied, is that he while on santry duty at the main gate of office complex at 9-30 a.m. on 15.1.97 stopped the staff car of Addl. DCP, South District, New Delhi and not only abused the Car driver also assaulted him and pointed his rifle at the chest of the driver of the official car. This type of misconduct cannot be treated lightly specially for the officials in uniform. The act of pointing rifle at the chest of a driver on duty was nothing short of a grave offence exhibiting total recklessness and indiscipline on the part of the delinquent official. Such conduct in the circumstances cannot be viewed seriously and in the facts and circumstances of the case, we do not find any merit in the revision petition and the same is rejected being devoid of merit

( B.N.SQM )  
VICE-CHAIRMAN(A)

( V.S. AGGARWAL )  
CHAIRMAN