

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1226/2001

New Delhi this the 2nd day of ~~May~~^{May}, 2002.

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

Retd. S.I. Tej Pal Singh,
R/o G-3/2, Police Colony,
Andrewsganj,
New Delhi-110049.

-Applicant

(By Advocate Shri Roopendra Singh)

-Versus-

1. Govt. of N.C.T. of Delhi,
through Commissioner of Police,
Delhi, Police Headquarters,
M.S.O. Building, I.T.O.
New Delhi.
2. Additional Commissioner of Police (Security),
Main Security Police Line,
Vinaya Marg, Chanakya Puri,
New Delhi.
3. Deputy Commissioner of Police (Security),
Main Security Police Line,
Vinaya Marg, Chanakyapuri,
New Delhi.

-Respondents

(By Advocate Shri Vijay Pandita)

O R D E R

By Mr. Shanker Raju, Member (J):

Applicant impugns disciplinary authority's order dated 16.12.99 (Annexure A-4) imposing upon him the punishment of forfeiture of three years' approved service, entailing proportionate reduction in pay from Rs.7075/- per month to Rs.6550/- per month in the time scale of pay for a period of six months with the stipulation that he will not earn increment of pay during the period of reduction which will have effect on his future increment of pay and treating the suspension period w.e.f. 8.4.99 to 5.5.99 as not spent on duty,. He also impugns the appellate order dated 24.10.2000, upholding the punishment.

(2)

2. Applicant was suspended w.e.f. 7.4.99, and after holding a PE a DE was initiated against him vide orders dated 28.5.99 on the allegation that on 7.4.99 while detailed as supervisory officer at the residence of Shri Omar Abdullah, M.P. at C-1/29, Pandara Park he misbehaved and molested ^{a -} Woman Constable on duty, who later on filed a complaint. The prosecution examined 13 witnesses, including the complainant who supported the allegations and thereafter a charge was framed. Applicant produced his defence evidence and also submitted a defence statement.

3. Enquiry officer through his findings dated 17.4.99 held the applicant guilty of the charge. A copy of the enquiry officer's findings was furnished to the applicant for representation. He submitted his representation on 5.10.99, upon which the disciplinary authority after considering the same as also other material on record, passed the impugned order dated 16.12.99. In that order disciplinary authority noted that the charge of molesting a subordinate was indeed serious but keeping in view applicant's age and his approaching retirement, ^{he} took a lenient view and imposed the punishment of forfeiture of three years approved service permanently for six months with cumulative effect. Applicant preferred an appeal against the punishment order, which was rejected by the appellate authority's detailed and speaking order on 24.10.2000, giving rise to the present OA.

4. Meanwhile, applicant's suspension was revoked by order dated ¹ 6.4.99.

5. Learned counsel for the applicant has assailed the impugned orders on the ground that the punishment imposed is not consonance with Rule 8 (a) (2) of the Delhi Police (Punishment & Appeal) Rules, 1980, inasmuch as multiple penalties have been imposed. The respondents in their reply stated that in the CAT, Principal Bench Full Bench's decision in A.S.I. Chandrapal v. Delhi Admin. & Anr. decided on 18.5.1999 (OA No.2225/93) vires of aforesaid Rule 8 (d) (b) has been upheld. In this view of the matter the contention of the applicant is rejected.

6. It is also contended by the applicant that the punishment is harsh and excessive. We find that the applicant has been charged with molestation ~~of a~~ a woman Constable, which, in our considered view, is a grave misconduct. Indeed, the disciplinary authority has also observed that the misconduct is very serious in nature, but keeping in view the fact that the applicant was about 59 years of age, ^{he} took a lenient view. Under the circumstances we hold that the punishment is neither harsh nor excessive.

7. Another contention of the applicant is that the findings are based on no evidence and respondents have relied on witnesses of second shift to corroborate the incident which has taken place in the first shift. We note that the complainant, Constable PW-1 in her statement in the DE has categorically stated that she was molested by the applicant and has narrated this incident to the Constable of second shift. Applicant has miserably failed to controvert the statement and has not produced any material in defence to rebut it. Enquiry Officer having

11

(4)

regard to the evidence on record, including the statement of complainant, and after duly taking the defence of the applicant into consideration, held him guilty of the charge. Molestation and misbehaviour was conclusively proved against the applicant. In our considered view, fortified by the decision of the Apex Court in Kuldeep Singh v. Commissioner of Police & Ors., JT 1998 (8) SC 603, if there exists some evidence, this Tribunal cannot re-appraise the evidence to come to a different conclusion ~~as~~ arrived by ^{? from that} the departmental authorities.

8. In so far as the ground that the evidence of complainant was not corroborated is concerned, we are of the considered view that the DE cannot be equated with a criminal trial where the strict rules of evidence are to be followed, and it is sufficient if on the principle of pre-ponderance of probability the misconduct of the delinquent is established. In the present case we find that on the basis of pre-ponderance of probability applicant's misconduct ^{stands} ~~is already~~ established.

9. We are satisfied that the findings of the enquiry officer are reasoned one and the orders passed by the disciplinary as well as appellate authorities are detailed and deal ^{with} with each of the contentions of the applicant.

10. In this view of the matter and having regard to the foregoing discussion, we do not find any legal infirmity in the orders passed by the respondents.

(5)

11. No other valid legal grounds have been raised to assail the proceedings.

12. In the result, OA fails and is accordingly dismissed. No costs.

S. Raju
(Shanker Raju)
Member (J)

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

'San.'