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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1843/2001

This the 9th day of July, 2002

HON'BLE SH. KULDIP SINGH, MEMBER (J)
HON'BLE SH. M.P.SINGH, MEMBER (A)

Ex. Const. Mukesh Kumar Sehrawat No.1053/SW
S/o Late Shri Mahender Singh
R/o 50/7, Pushp Vihar, Saket. Applicant

(By Advocate: Sh. Sama Singh)

Versus

1. Govt. of N.C.T. of Delhi
through its Chief Secretary.
2. Commissioner of Police,
Delhi Police Headquarters,
M.S.O. Building, I.P.Estate,
New Delhi-110002.
3. Addl. Commissioner of Police,
Armed Police, New Police Lines,
Kingsway Camp,
Delhi-110009.
4. Deputy Commissioner of Police,
Vth Bn. Delhi Armed Police,
New Police Lines Kingsway Camp,
Delhi-110009. Respondents

(By Advocate: Mrs. Jasmine Ahmed)

ORDER (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant was proceeded departmentally on the allegations that while his posting at P.S. Najafgarh, he was detailed for duty at Delhi Gate Picket on the night between 4-5.6.94. When he was checked by S.H.O. Najafgarh at about 1.30 a.m. he was found absent from the duty and the rifle issued to him was lying unattended in the Police Booth. The rifle issued to him was taken into possession for safety of the weapon and the same was deposited in the Police Station malkhana by the S.H.O. Departmental enquiry was held on these allegations. After the departmental enquiry was held, the enquiry officer returned his finding holding the applicant guilty of the

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charge on the basis of which the disciplinary authority passed the impugned order whereby the disciplinary authority awarded a punishment of dismissal from service with immediate effect and also directed that the suspension period from 5.6.94 to 26.11.94 be decided as not spent on duty for all intents and purposes.

2. An appeal was preferred vide Annexure-A. The appellate authority upheld the order of the disciplinary authority and awarded a penalty of dismissal from service. Appellate authority thus rejected the appeal of the applicant. In order to assail these orders, the applicant has taken various grounds but one of the grounds is also that the punishment awarded to the applicant is disproportionate and it will pinch the judicial conscious also to see that for such a minor fault major penalty of dismissal is awarded. Counsel for applicant also referred to a defence statement of the applicant and submitted that when the applicant was on duty, at the midnight a lady from his family relation came at picket and stated that she was unable to go to her house in the midnight hours all alone and applicant with the permission of the Head Constable, who was incharge of the picket, went to leave that lady at her residence. Applicant reached back to the picket at 6 a.m. in the morning and he explained the delay as to how he reached after such long hours because no transport was available from his village to the picket where he was posted on duty. Thus, the learned counsel for the applicant submits that only because of leaving a lady at her residence in the mid night applicant was punished and a penalty of dismissal of service which is disproportionate to the alleged misconduct was imposed.

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3. We have considered this aspect and we have also gone through the findings and the evidence recorded by the enquiry officer.

4. The statement of the witness HC Man Singh who has been examined as PW-1 does show that he alongwith the applicant was on duty at Delhi Gate, Najafgarh from 8 p.m. to 8 a.m. and about 11.30 p.m. Constable informed him that a lady from his family relation had suddenly met him and she had requested him to leave at her village as she was not in a position to go home alone at odd hours, so applicant accompanied her to leave her at her village and he assured HC Man Singh to come back within half an hour. At about 1.30 a.m. the SHO, Najafgarh enquired for the applicant at picket point from the Head Constable but applicant was missing and his rifle was lying there. The witness further deposed that the applicant returned back at 6.30 a.m., i.e., in the early hours on the next day. This statement does go to show that the applicant after informing the Head Constable, who was incharge of the picket, left the picket only for a purpose to leave a lady at odd hours of night who was native to her village. As far as the duty of the applicant is concerned he returned at 6.30 a.m. as deposed by Head Constable Man Singh which also go to show that applicant had no intention to be away from his duty but because of the circumstances that a lady who was all alone met him at mid night and in order to see that she reaches the village safely he had left the picket. Thus, the misconduct as reported and as admitted by the applicant in his defence, goes to show that the applicant had no intention to leave the duty for any other reason except for the noble cause for leaving the lady at her residence.

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5. In these circumstances, we find that the punishment awarded to the applicant seems to be slightly on higher side which shakes the judicial conscious. The disciplinary authority should have also taken into consideration the fact that the applicant had returned to the duty immediately after leaving the lady at her house. So instead of awarding a penalty of dismissal or removal the disciplinary authority could have awarded any other punishment with lesser effect. We set aside the order of the disciplinary authority and remand back the case to the respondents to reconsider the case of the applicant on the quantum of punishment within a period of 3 months and award any other punishment except removal or dismissal. No costs.


(M.P. SINGH)
Member (A)


(KULDEEP SINGH)
Member (J)

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