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Central Administrative Tribunal
Principal Bench

O.A. No. 2759 of 2001

New Delhi, dated this the 14th May, 2002

HON'BLE MR. S.A.T.RIZVI, MEMBER (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

Const. Goverdhan No.2474
S/o Shri Moti Ram
R/o D-679 Gali No.5,
Pratap Vihar, Part-II
Nangloi, Delhi. ...Applicant.
(By Advocate : Shri T.D. Yadav)

Versus

1. Govt. of N.C.T.of Delhi & Ors.
through Commissioner of Police,
Police Headquarters, I.P.Estate,
New Delhi-110002.
2. Additional Commissioner of Police,
Armed Police, III Bn.
Vikas Puri, Line, New Delhi.
3. Dy. Commissioner of Police,
III Bn. DAP, Vikas Puri, Line, Delhi ..Respondents.
(By Advocate : Shri Ajay Gupta)

ORDER (ORAL)

By S.A.T.Rizvi, Member (A)

On the charge of unauthorised absence from duty for 12 hours and 30 minutes while posted at the judicial lock-up, the applicant has been tried departmentally and a major penalty of forfeiture permanently of one year's approved service for a period of two years has been imposed on him entailing reduction in his pay from Rs.3575/- to Rs.3500/-, with a further direction that the applicant will not earn increment of pay during the period of reduction as above and on the expiry of the aforesaid period, the reduction will have the effect of

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postponing his future increments of pay. The aforesaid penalty which has been imposed by the disciplinary authority's order dated 13.2.2001 (Annexure-A) also provides that the applicant's absence in question has been treated as not spent on duty and that it has not been regularised in any manner. The aforesaid penalty has been up-held by the appellate authority who has passed orders in appeal on 7.8.2001 (Annexure-A).

2. The learned counsel appearing on behalf of the applicant submits that the disciplinary proceedings stand vitiated due to non-supply of certain documents during the course of enquiry and also on account of the fact that Dr. Arvind Rao who is supposed to have examined him on 28/29th August, 1999 at the Hindu Rao Hospital has not been examined in respect of the entries made in the MLC register. The findings recorded by the enquiry officer as well as the orders passed by the disciplinary authority as well as the appellate authority also stand vitiated as the deposition made by the defence witnesses has not been properly considered. The learned counsel also submits that the penalty imposed is excessive having regard to the nature of the mis-conduct.

3. The learned counsel appearing on behalf of the respondents, on the other hand, contends that the penalty imposed is in order and is commensurate with the nature of mis-conduct and the same cannot be called excessive by any stretch of imagination. According to him, the disciplinary proceedings have been conducted properly and in accordance with the rules. The applicant has been

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given reasonable opportunity to state his case. There is no ground, therefore, for interfering with the impugned orders.

4. We have considered the submissions made by the learned counsel on either side and find that the various pleas advanced on behalf of the applicant are without merit. The complaint made that certain documents were not supplied during the course of enquiry is found to be untenable on the ground that no written request is shown to have been made for the supply of any of the documents. At the same time, a perusal of the findings recorded by the enquiry officer shows that the evidence given by all the defence witnesses has also been properly evaluated and analysed by the said authority before arriving at his conclusions. Regarding examination of Dr. Arvind Rao, the applicant was free to name him as his witness. This he has not done and, therefore, he cannot raise the issue of non-examination of Dr. Arvind Rao. Further, no written request appears to have been made by the applicant for summoning Dr. Arvind Rao for examination. In the disciplinary proceedings we are not required to re-appraise the evidence brought on record and to arrive at our own conclusions in regard to the guilt or innocence of the delinquent official. It is not a case in which the plea of non-application of mind has been raised. No allegation of perverse findings has been made either. The orders passed by the disciplinary and appellate authorities are reasoned and speaking orders. In the circumstance, we are not inclined to interfere with the impugned orders.

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5. In the light of the foregoing, the OA is found to be devoid of merit and is dismissed. There shall be no order as to costs.

S. Rajm
(SHANKER RAJU)
Member (J)

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S. A. T. Rizvi
(S.A.T. RIZVI)
Member (A)