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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.3031/2001

New Delhi this the 17th day of September, 2002.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI M.P. SINGH, MEMBER (A)

Mr. S.S. Lakra
Deputy Superintendent of Police
Central Bureau of Investigation,
Block No. III
CGO Complex, Lodhi Road,
New Delhi Applicant

(By Shri P.P. Khurana, Senior counsel with Mrs.
Harvinder Oberoi, Advocate)

-versus-

1. Union of India through
the Secretary
Ministry of Home Affairs,
North Block
New Delhi.
2. Director,
Central Bureau of Investigation,
Block No. III
CGO Complex, Lodhi Road,
New Delhi
3. Mr. S.P. Singh,
Superintendent of Police,
Central Bureau of Investigation,
Block No. III
CGO Complex, Lodhi Road,
New Delhi Respondents

(By Shri Mohar Singh, Advocate)

O R D E R (ORAL)

Justice V.S. Aggarwal:-

By virtue of the present application, applicant (S.S. Lakra) seeks quashing of the charge memo dated 14.3.1995, the subsequent proceedings and the final order dated 21.8.2001 and

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a further direction to the respondents to promote him to the grade of Additional Superintendent of Police in accordance with the recommendations of the Departmental Promotion Committee.

2. Some of the relevant facts are that the applicant while posted at Jammu is alleged to have misconducted himself and acted in a manner unbecoming of a Government servant in the night intervening 3.8.1994 and 4.8.1994 between 8.30PM to 12.00PM. He was intoxicated in the office of the Central Bureau of Investigation in the company of others. In that condition, he verbally abused Shri Harbans Singh, SP Terrorist Cell, Jammu and instigated other Deputy Superintendents of Police to do likewise. In such a condition, he banged the door the room in which Shri Harbans Singh was sleeping in order to terrorise, humiliate and lower his dignity.

3. Departmental proceedings were held against the applicant and on consideration of the enquiry report, a penalty of withholding of increment for a period of two years with cumulative effect was imposed upon him.

4. The learned counsel for the applicant has assailed the order referred to above only on two grounds, namely:-

(i) the enquiry officer has held the

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applicant guilty of something which was not a part of the charge; and

(ii) there was no misconduct on the part of the applicant because he was not in intoxicated condition at any public place.

5. It hardly needs to be emphasised that the respondents contested the application and repelled the pleas of the applicant.

6. Taking up the first argument of the learned counsel, we have already referred to above, the sum and substance of the charge against the applicant. The statement of articles of charge for the sake of facility is being again reproduced:

"That Shri S.S.Lakra, DSP, CBI while posted at TC Cell Jammu and working as such committed gross misconduct and acted in a manner unbecoming of a Govt. Servant in as much as he, in the night intervening 3.8.94 and 4.8.94 between 8.30 p.m. to 12.00 p.m. (approx.) got himself intoxicated in the CBI office premises in the company of Shri V.P. Arya, DSP and S.C. Yadav, DSP, CBI, Jammu and in such intoxicated condition verbally abused Shri Harbans Singh, SP Terriost Cell, Jammu and instigated the other Dy. Ss.P.to do likewise and in such intoxicated condition banged the door of the adjacent room in which Shri Harbans Singh, SP was sleeping, in order to terrorise, humiliate and lower his dignity. He thereby violated the office circular No. 14/Estt./GR/MEMO/TC/Jammu dated 12.7.93 and contravened Rule 3(1)(iii) and Rule 22 of CSS (Conduct) Rules, 1964."

7. During the course of enquiry, the evidence had been led and the enquiry officer on the basis of the evidence that he had recorded found that the department had not been able to show that the

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applicant was heavily drunk or he used filthy language towards the Superintendent of Police. It was not proved that the applicant banged the door of the Superintendent of Police. It was also not proved that the applicant had taken excessive liquor in the office. The enquiry officer had recorded a finding that the applicant had consumed liquor in the room of Shri V.P. Arya along with others. It was not established that they used filthy language directed at the Superintendent of Police. But only thing established was that after consuming the liquor, the applicant and others did shout and hurled abuses at each other in an inebriated condition.

8. Aforesaid finding clearly shows that though the charge was that the liquor had been consumed in the office of the CBI and the applicant abused Shri Harbans Singh, SP and even banged his door to humiliate and lower his dignity, all these facts were held not to have been established. What had been established is totally contrary to the imputations as against the applicant.

9. It is a well-settled principle of law that the charge-sheet is a charter of disciplinary action. The domestic enquiry commences with the service of the charge-sheet. The delinquent official has to be informed clearly, precisely and

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accurately of the charge levelled against him. It has to be based on the settled principle of equity and fair play. The sole purpose is that the concerned person should be able to defend himself. A fair hearing is sine qua non and for that a clear, precise and accurate charge must be served. If that is not so, a genuine complaint of prejudice can easily be raised.

10. The Supreme Court in the case of Laxmi Devi Sugar Mills Ltd. vs. Nand Kishore Singh way back in 1956 Volume 11 Labour Law Journal 439 categorically held that the charge-sheet which was furnished must form the basis of the enquiry which had been held. It could not be allowed to justify its action on any other grounds than those contained in the charge-sheet.

11. Similar is the position herein. As already pointed above, the charges were different and what had been held to have been established is poles apart from the nature of the charges. On that count, it was totally inappropriate and improper to base any order imposing any punishment on the applicant.

12. Even on the second count what has been alleged cannot be ignored. Rule 22 of the CCS (CCA) Rules is under:

"22. Consumption of intoxicating drinks and drugs.

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A Government servant shall-

- (a) strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he may happen to be for the time being;
- (b) not be under the influence of any intoxicating drink or drug during the course of his duty and shall also take due care that the performance of his duties at any time is not affected in any way by the influence of such drink or drug;
- (bb) refrain from consuming any intoxicating drink or drug in a public place;
- (c) not appear in a public place in a state of intoxication;
- (d) not use any intoxicating drink or drug to excess.

EXPLANATION- For the purpose of this rule 'public place' means any place or premises (including a conveyance) to which the public have, or are permitted to have, access, whether on payment or otherwise."

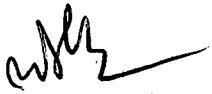
13. From the nature of the charges framed, it is patent that as against the applicant it had been alleged that he consumed liquor in the office of the CBI. During the course of submissions, we have been informed that the residential portion adjoins the office at Jammu. The enquiry officer found that liquor had been consumed in the room of Shri V.P. Arya. In other words, there was no consumption of liquor in the office or at any public place. Strictly speaking, no law in this regard has been violated. The report indicates that after consuming liquor that too at a private place, the applicant and Shri V.P. Arya had

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exchanged abuses among themselves. They were not hurled at the Superintendent of Police. Not only it was a charge framed but it was also not at any public place. There is nothing to indicate that the applicant behaved in a manner that it can be stated that it was a manner unbecoming of a Government servant. The result would be that the impugned order indeed cannot stand scrutiny.

14. For these reasons, we allow the application and quash the impugned order. The applicant would be entitled to all the monetary benefits, if any. It is further directed that the case of the applicant for promotion can be considered in accordance with the rules. No costs.

Announced.


(M.P. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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