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Central Administrative Tribunal
Principal Bench

O.A. No. 3384 of 2001

New Delhi, this the 4th February, 2003

HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. S.K. MALHOTRA, MEMBER (A)

J.K. Bagri,
S/o Late Dharam Singh,
R/o A-121, Vijay Park,
Naya Bazar,
Najafgarh,
New Delhi-43. Applicant
(By Advocate: Shri A.K. Behra with Shri A.K.
Trivedi)

Versus

Union of India
through its

1. Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. The Director General,
Central Industrial Security Force,
(Ministry of Home Affairs),
Block No.13, CGO Complex,
Lodhi Road,
New Delhi-3.
3. The Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi-11.
4. Shri Pratap Singh,
Assistant Inspector General,
CISF., Block No.13,
CGO Complex,
Lodhi Road,
New Delhi-3. Respondents.

ORDER (Oral)

Justice V.S. Aggarwal

The applicant J.K. Bagri had joined the Central Industrial Security Force in 1981. He had been promoted and was working as Section Officer from 20.5.1998. While working as Section Officer he was

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served with Articles of charges which read:

ARTICLE-I

" Shri. J.K. Bagri, Section Officer, while posted and functioning as SO (L&R) in CISF HQrs. from 20.5.93 to 25.9.98 committed a gross misconduct in that he made a false representation in his leave application dated 15.9.98 by stating that he would proceed on leave to visit his home village Kharkoda, District Sonepat, together with his family but in fact he visited Jaipur along with lady Constable Rajeshwari Yadav during his period of leave i.e. from 17.9.98 to 18.9.98 so sanctioned to him. Shri Bagri did not even inform the FHQrs. regarding the changed leave address. Thus, by his irresponsible conduct. Shri J.K. Badri acted in a manner unbecoming of a Government Servant.

ARTICLE-II

That the said Shri J.K. Bagri while posted and functioning as SO (L&R) during the aforesaid period committed a gross misconduct in that he after having got his leave sanctioned on the ground of visiting his home village kharkhoda proceeded to jaipur and being a married person himself stayed in Chambal Guest House of RSEB at Jaipur, and shared room (No.6) with lady Constable Rajeshwari Yadav in the night of 17/18.9.98. As such, Shri Bagri indulged in a grossly immoral act and thereby lowered the image of the Force in the estimation of general public. Thus, the said Shri Bagri acted in a manner unbecoming of a Government Servant.

ARTICLE-III

That the said Shri J.K. Bagri, while posted and functioning as SO (L&R) during the aforesaid period committed a gross misconduct in that he unauthorisedly passed on confidential informations to Shri Yogesh Mehta, Assistant Commandant regarding his Departmental Enquiry and in return secured direct favour from him by having got an accommodation arranged for him at RSEB Guest House, Chambal at Jaipur for 17/18.9.98, thereby committing a breech of trust. Thus, Shri Bagri failed to maintain absolute integrity and acted in a manner unbecoming of a Government Servant."

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2. An Enquiry Officer had been appointed. The Enquiry Officer, after going into the facts, concluded that Article of Charge No.III is not proved. Article of Charge No.I is proved and Article of Charge No.II is partly proved.

3. On the basis of said report of the Enquiry Officer, the Disciplinary Authority had imposed a penalty of compulsory retirement from service upon the applicant with effect from the order i.e. 22.5.2000. The appeal was filed which has since been dismissed.

4. Though in the application, the applicant has taken various pleas but it was stated that without going into that, the penalty imposed is inappropriate with the alleged dereliction of duty.

5. The principle of law is not in dispute. We note from the decision of the Supreme Court in the case of Ranjit Thakur Vs. UOI & Ors., (1987) 4 SCC 611 that ordinarily the question of choice and quantum of the punishment is within the jurisdiction and discretion of the disciplinary authority. However, the punishment to be awarded should be commensurate with the nature of dereliction of duty. The same view was expressed by an earlier judgment of the Apex Court in the case of Bhagat Ram Vs. State of Himachal Pradesh & Ors., (1983) 2 SCC 442.

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6. We need not reiterate what has been stated above that it is within the domain of the disciplinary authority to impose the appropriate punishment to maintain discipline in the civil service/post. In judicial review this Tribunal would refrain itself from interfering in this regard unless the punishment awarded is not commensurate with the alleged dereliction of duty.

7. In the present case, the charge No.1 proved was pertaining to that the applicant made a false representation in his leave application stating that he would proceed on leave to visit his home village Kharkhoda while he visited Jaipur. In addition to that lady Constable Rajeshwari has since been exonerated of a similar charge of being at Jaipur. The findings of the inquiry officer (Annexure A-13) are also that they were seen on that day but it is not proved that any act was done to bring CISF to disrepute. It is these facts that prompt us to hold that the penalty imposed is far too severe and is not commensurate with the alleged dereliction of duty.

8. Resultantly, we allow the present application and quash the impugned order. It is directed that the disciplinary authority may, at his discretion, impose any other punishment in the facts and circumstances of the case. However, the applicant will not be entitled to any arrears for the

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intervening period from the date the impugned order had been passed upto the date of this order. O.A. is disposed of.

Omally
(S. K. Malhotra)
Member (A)

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V. S. Aggarwal
(V. S. Aggarwal)
Chairman.