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Central Administrative Tribunal Principal Bench

O.A. No. 1131 of 1999

New Delhi, this the day of 18th April, 2001.

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)
Hon'ble Mr. Govindan S. Tampi, Member(A)

Shri Khazan Singh,
Head Constable (Dvr.),
2nd Bn. D.A.P.,
New Police Line, Kingsway Camp,
Delhi.
(By Advocate: Shri Sama Singh)

Versus

1. Commissioner of Police,
Police Headquarters, M.S.O. Building,
I.P. Estate, New Delhi-110002.
2. Addl. Commissioner of Police,
New Police Lines, Kingsway Camp,
Delhi-110009.
3. Deputh Commissioner of Police,
2nd Bn. D.A.P., New Police, Lines,
Kingsway Camp, Delhi-110009. ... Respondents
(By Advocate: Shri Rajinder Pandita)

ORDER

By Shri Govindan S. Tampi, Member(A)

Challenge in this application filed by Shri Khajan Singh, Head Constable(Driver) attached to Delhi Police, is directed against order no.1816-45/HAP-II dated 15.4.98 passed by the Dy. Commissioner of Police, II Bn. D.A.P. Delhi imposing on him the punishment of forfeiture of one years approved service with direction to treat the period of his suspension between 12.9.90 and 2.4.91 as period spent on duty and the appellate order dt. 3.11.98 by the Addl. Commissioner of Police confirming the above.

2. Heard S/Shri Sama Singh and Rajinder Pandita learned counsel respectively for the applicant and the respondents.

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3. The applicant who joined Delhi Police as Constable on 15.2.68 became on 20.8.70 Constable(Driver) and was posted as Despatch Rider. He became Head Constable(Driver) on 1.1.84. As Despatch Rider he was expected to deliver papers from one place(Office) to another; and he could not be deployed for any other duties including general duties. Still he was directed on 17.8.90 to report for general duty at Teen Murti Lines but could not do so due to illness. His application for commuted leave for seven days from 18.8.90 to 24.8.90 with the medical certificate was not accepted by the Duty Officer stating that he had already been relieved on 17.8.90 itself for Teen Murti Lines but the Duty Officer in Teen Murti indicated that Khazan Singh had not reported there. On 20.8.90 he also challenged his posting on general duties to Teen Murti Lines. In between an absentee notice was also issued to him whereafter he applied for ten days commuted leave. Proceedings were sought to be initiated and he was also placed under suspension w.e.f.12.9.90 to 30.4.91. Deptt. went ahead with the enquiry proceedings inspite of his representation and therefore he did not attend the enquiry as a mark of his protest. (In the meanwhile, in another proceedings against him the applicant was dismissed from service but reinstated) Inquiry Officer held the charge as proved and the applicant represented against it. Still the Disciplinary Authority passed the impugned order dated 15.4.98, which was confirmed by the appellate authority on 3.11.98.

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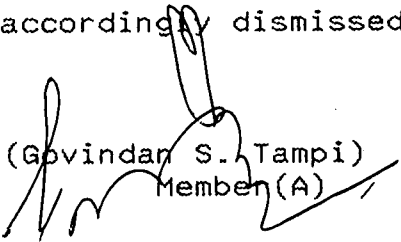
3. According to Shri Sama Singh, learned counsel for the applicant the proceedings initiated against him were illegal. He was proceeded against for absence from duty while what actually happened was that he was ill for which he had sought leave after obtaining medical advice. He further states that inspite of the fact that he ^{belonged} ~~was~~ to a special category i.e., Constable Driver (Despatch Rider) in terms of his appointment order he was designated for general duties at Teen Murti Lines which should not have been done. In the above view of the matter it would be clear that the proceedings against him were vitiated and should be set aside. He also referred to the findings of the D.A. that there was an of victimisation of the applicant and that he had not undergone any ^{previous} punishment on account of moral turpitude which should also go in his farvous.


4. The essence of the reply by Shri Rajinder Pandita, learned counsel for the respondents is that he applicant's not having joined Teen Murti Lines for VVIP duties as directed and having absented himself deliberately from duty, respondents had to initiate proceedings against him. His plea that he would not do anything other than Despatch Rider duties even in emergency was improper and totally unbecoming of a member of an uniformed service. Applicant had acted as a totally improper manner and had been accordingly dealt with but after following the necessary procedure. There was therefore no ground for any interference from the Tribunal in the matter more so as the punishment imposed on the applicant was was a lenient punishment, argues Shri Rajinder Pandita.

5. We have carefully considered the matter. It is not disputed that the applicant who was deployed to Teen Murti Lines from Pritampura where he was working did not attend the same on 17.8.90. His illness obtaining Medical Certificate and filing an application for commuted leave are subsequent events. It is also conceded by the applicant that he felt agitated against the order posting him for general duties at Teen Murti Lines. His complaint is with the expression general duties. This D.D. entry was indeed a general remark and he would not normally have been given the jobs given to ordinary Constables, if he had reported at Teen Murti Lines. His apprehension that he was being detailed for duties other than of a despatch rider was without any basis. Even if for argument sake it was granted to be so it was improper and incorrect on the part of the applicant to have taken a stand that he would not do any job other than his own even on emergency. ^{In fact} no official let alone someone like the applicant who belongs to a uniformed service can adopt a posture of defiance against it. It is in the circumstances, it has been found by the enquiry officer that the charge of deliberate absence against the applicant was proved. The same has been accepted by the Disciplinary Authority who has ordered the impugned punishment, duly upheld by the Appellate Authority. Perusal of the Disciplinary Authority's order also makes it evident that he has taken a lenient and considerate view in respect of the applicant. In the above circumstances, neither the Disciplinary Authority's

order nor the Appellate Authority's order can be faulted on facts or in law. Punishment imposed on the applicant cannot in any way be considered as harsh or unconscionably high.

6. We find in the result that no case for our interference is made out. Application fails and is accordingly dismissed. No costs.


(Govindan S. Tampi)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

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