

Central Administrative Tribunal  
Principal Bench

O.A. No. 1372 of 1999

New Delhi, dated this the 29<sup>th</sup> May, 2000

12

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)  
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri Uddha Lal Meena,  
S/o Shri Ram Ratan Meena,  
Vill. Kachalia,  
P.S. Sultanpur,  
Dist. Kota (Rajasthan) .. Applicant

(By Advocate: Shri S.M. Rattanpaul)

Versus

1. L.G., Delhi,  
through Chief Secretary,  
Govt. of NCT of Delhi,  
5, Sham Nath Marg,  
Delhi-110054.
2. The Commissioner of Police,  
Delhi Police Headquarters,  
M.S.O. Building, I.P. Estate,  
New Delhi.
3. The Jt. Commissioner of Police,  
Southern Range,  
Delhi Police Hqrs.,  
M.S.O. Building, I.P. Estate,  
New Delhi.
4. Addl. Dy. Commissioner of Police,  
West District,  
New Delhi. .. Respondents

(By Advocate: Shri Harvir Singh)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant impugns the disciplinary authority's order dated 14.11.98 (Annexure A-4); the appellate authority's order dated 21.4.99 (Annexure A-5). He seeks reinstatement w.e.f. 14.11.98 with all consequential benefits and treatment of the suspension period from 1.3.98 to 14.11.98 as period spent on duty with all consequential benefits.

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2. Applicant was proceeded against departmentally on the allegation that on 1.3.88 at about 4.05 P.M. applicant who was under the influence of liquor started beating and abusing Constable Satbir Singh who was returning from duty without any cause or provocation as a result of which Constable Satbir Singh sustained injuries. Applicant reached in reporting room at P.S. Punjabi Bagh and started shouting unnecessarily. As he was under the influence of liquor he was got medically examined in the Hospital where the doctor opined vide MLC No. 001764 "Smell of alcohol". Const. Satbir Singh was also examined medically in that hospital and the doctor opined vide MLC No. 1837/E-14431 "Simple Blunt".

3. Applicant was suspended vide order dated 16.3.98.

4. The E.O. in his report dated 18.8.98 (Annexure A-3) held the charge against applicant of consuming alcohol and beating Const. Satbir Singh as proved.

5. A copy of the E.O's report was furnished to applicant for representation, if any. Applicant submitted his written reply on 16.9.98 in which he stated that he did not want to say more in his defence except what he had already stated in his defence statement during the D.E.

6. After going through the materials on record and agreeing with the E.O's findings the disciplinary authority held that applicant's misconduct was indeed serious and he was not fit to be retained in Government service, particularly a disciplined force like Delhi Police. Accordingly by impugned order dated 14.11.98 he dismissed applicant from service and also ordered that the suspension period from 1.3.98 onwards be treated as period not spent on duty. (X)

7. Applicant's appeal was rejected vide order dated 21.4.99.

8. We have heard applicant's counsel Shri Rattanpaul and respondents' counsel Shri Harvir Singh.

9. Various grounds have been taken in the O.A. These include (i) absence of applicant at the relevant time and place of the incident; (ii) that he was not under the influence of liquor; (iii) the concerned doctor was not examined during the D.E. to prove the M.C.; (iv) contradictions in the statements of witnesses; (v) non-examination of Constable Nahar Singh as a P.W.; (vi) non-summoning of Nahar Singh as a D.W.; (vii) preliminary enquiry not conducted; (viii) prejudice on the part of the E.O. and (ix) non-adherence to Rules 8 and 10 Delhi Police (P&A) Rules.

2

10. We have considered these grounds carefully.

(5)


11. The statement of Constable Satbir Singh which is supported by the report of S.I. Rajpal Singh is sufficient to establish that applicant was present at the time and place of the incident. Even if he was not under the influence of liquor, there is enough evidence to establish that it was he who beat Constable Satbir Singh regardless of the fact that the doctors who issued the M.C. was not examined during the D.E. The contradictions if any in the statements of witnesses is not such as to throw doubt on the case of the prosecution, notwithstanding the non-examination of Nahar Singh as a P.W., and as regards the non-summoning of Nahar Singh as a D.W. despite applicant's request to do so, applicant<sup>^</sup> did not take this ground in his appeal and the same is clearly an afterthought. A preliminary inquiry is not mandatory in case such as the present one when specific information was available as is clear from the provision of Rule 15(1) Delhi Police (P&A) Rules, and assaulting a colleague so severely as to cause injuries to him is without doubt an act of grave misconduct which renders a member of a disciplined force such as Delhi Police, where the highest standards of retitude and behaviour are expected, an act of grave misconduct within the meaning of Rule 8 Delhi Police (P&A) Rules.

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12. It must be remembered that unlike in a criminal case, where the guilt of the accused has to be proved beyond all reasonable doubt, in a D.E. it is sufficient if the preponderance of probability points to the misconduct of the defaulter, and by this criteria we have no hesitation in agreeing with the disciplinary authority that applicant had consumed alcohol and beat Constable Satbir Singh. In this context, the penalty cannot be said to be excessive and as applicant got full opportunity to defend himself, and no infirmity in the conduct of the proceedings which seriously prejudiced him in his defence has been brought to our notice, we find no good reason to interfere in the O.A.

13. The O.A. is, therefore, dismissed. No costs.

  
(Kuldip Singh)  
Member (J)

  
(S.R. Adige)  
Vice Chairman (A)

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