

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1696-1999

Hon'ble Shri Justice V. Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member (A)

New Delhi, this the 20th day of November 2000

Shri Jai Singh
S/O Shri Lakhan Singh,
r/o Village Maidan Garhi
PO & PS: Mehrauli,
New Delhi

.....Applicant
(By Shri Kuljiwan Goyal, Advocate)

VS

1. The Commissioner of Police,
MSO Building, Police Headquarters,
IP Estate, New Delhi.
2. Addl. Deputy Commissioner of Police,
R P Bhawan, New Delhi

.....Respondents
(By Shri Rajinder Pandita, Advocate)

O R D E R (ORAL)

JUSTICE V. RAJAGOPALA REDDY,

The applicant was earlier working as Driver/Constable. It was alleged that during his detailment ~~detained~~ for relief dropping duty in a Government vehicle on 29.11.97 at 8:50 AM, while he was carrying 25 to 30 jawans of morning shift for dropping them at their respective duty point, he caused a accident with a bus already parked on road. It was also alleged that he was under the influence of alcohol while on duty. Since the applicant pleaded not Guilty a DE was ordered and the enquiry officer submitted his report holding that the applicant was Guilty of the charge, on the basis of which the disciplinary authority imposed

the penalty of Removal from service by impugned order dated 16.7.1998. The appeal was also rejected before the Revision Petition was disposed the applicant came to this court.

2. It is contended by the learned counsel of the applicant that there is no evidence in support of the allegation that accused was under the influence of alcohol while he was on duty but the disciplinary authority passed the impugned order on the premises that he caused the accident under the influence of alcohol.

3. Heard the counsel for the applicant and the respondents. The applicant admits that he has caused the accident. Hence, the only question that needs to be gone into is whether the applicant has caused the accident under the influence of alcohol. The disciplinary authority has proceeded on the assumption that the applicant was under the influence of intoxicating drink and that intoxication while on duty was a serious mis-conduct. Having thus found that the applicant committed a serious misconduct he removed him from service. The Enquiry Officer's report is placed before us by the learned counsel for the applicant. The conclusion in the said report reads as under:

"It is quite clear from the statements of the PWs inspection of the file and defence statement submitted by the defaulter Cd.(Dvr.) Jai Singh No. 248/RB that the vehicle No. DL-IV-2748 driven by Ct. Jai Singh has met with an accident and caused damages to the Govt. vehicle and puts the lives of security personnel in danger. Therefore, it could safely be concluded that the charge of causing accident, damages to the Govt. vehicle DL-IV-2748 and putting the lives of 25-30 jawans

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travelling in the bus in danger against Ct. (Dvr.) Jai Singh 248/RB (PIS No. 2882411) are fully proved. The charge that the driver Jai Singh was completely drunk is not fully proved in the absence of medical examination and eye witnesses.

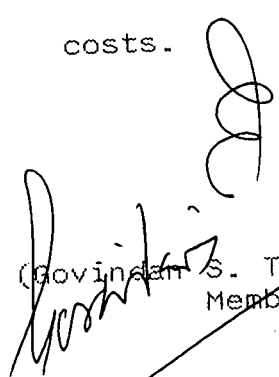
4. Thus the Enquiry Officer found that the applicant caused the accident putting the lives of 25-30 jawans travelling in the bus in danger. To this extent the charge was certainly proved. Now coming to the question of drunkenness he has given the finding that this charge was not proved. There was no medical examination and or any witness examined in support of this allegation. But, surprisingly, he also states that the consumption of the liquor by the applicant could not be ruled out. In our opinion this last sentence is not linked with any reasons. It cannot be a conclusion when there was no proof. It is only an opinion. Thus it is clear that in so far as the misconduct of drunkenness is concerned it is to be taken that it was not proved. In the absence of such proof the impugned order issued on the basis that applicant was drunk cannot be sustained.

5. Learned counsel for the respondents Shri. Rajender Pandita vehemently contends that the evidence of PW-3 was sufficient to hold that the applicant was under the influence of drink while on duty. The fact is that the Enquiry Officer himself was not prepared to rely in this witness. It is further contended by the learned counsel that the applicant ran from the scene of accident immediately after the accident and hence no evidence could be gathered about his drunkenness. This contention again is not acceptable. It cannot be inferred that because he fled away from the scene he

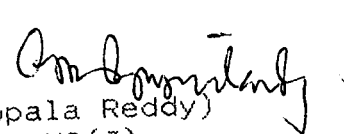
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was under the influence of liquor. Therefore the charge against him that he was under the influence cannot be sustained. (10)

6. In view of the foregoing discussion the OA partly succeeds. The impugned orders are set aside. The matter is remitted back to the disciplinary authority to pass fresh orders treating that the charge was proved only to the extent that the applicant caused the accident and that part of the charge that he was under influence of drink while on duty, was not proved. The previous bad record also should not to be taken into consideration as it did not form part of the charge sheet. The final orders should be passed within 3 months. OA is accordingly allowed. We do not order costs.


(Govindan S. Tampi)
Member (A)

Patwal/


(V. Rajagopala Reddy)
VC(J)