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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2451/1999

New Delhi this the 18th day of November, 1999.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

1. Harendra Singh
S/O Krishna Behari Singh,
Head Constable,
179, P.T.S. Malviya Nagar,
New Delhi-110017.
2. Umrao Singh S/O Budh Ram,
Head Constable,
R/O Bhora Kalan, P.S. Bilaash Pur,
Distt. Gurgaon,
Haryana. Applicants

(By Shri Y. P. Sharma, Advocate)

-Versus-

1. Commissioner of Police, Delhi
Police Headquarters, I.T.O.,
New Delhi.
2. Addl. Commissioner of Police P.C.R.,
Delhi Police Headquarters,
MSO Building, I.P.Estate,
New Delhi.
3. Dy. Commissioner of Police,
Control Room, Delhi Police,
Delhi Police Hqrs., ITO 5th Floor,
New Delhi.
4. Shri V.K.Gupta, Enquiry Officer,
Inspector S.W. Zone P.C.R. at
P.s. Bhajan Pura,
Delhi. Respondents

O R D E R (ORAL)

Shri Justice Ashok Agarwal :


A penalty of forfeiture of two years' approved service permanently for a period of two years awarded to the applicants in disciplinary proceedings initiated against them is impugned in the present application. Applicants are Head Constables who were on duty on PCR Van Z-28 which was stationed at Centaur

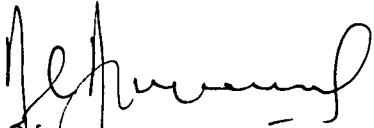
Hotel. During a surprise check applicants were found missing along with the van from the said place of posting between 11.20 p.m. and 3.20 a.m. during the night between 19th and 20th November, 1995. They were thereafter found on duty with the van at the place of their posting, i.e., Centaur Hotel at the second round made by the Additional Commissioner of Police (Ops.) at 3.55 a.m. On enquiry, applicants informed that there was delay in change of battery due to failure of electricity supply at the workshop. Since their explanation was not found convincing as batteries are usually kept available at the workshop for a change, applicants were chargesheeted for remaining absent from their place of duty between 11.20 p.m. and 3.20 a.m. during the night between 19th and 20th November, 1995.

2. In the enquiry, eight witnesses were examined. It is the contention raised by applicants before the disciplinary authority which contention was reiterated in the appeal filed by them before the Additional Commissioner as also before us that none of the witnesses deposed anything against the applicants so as to warrant a conclusion of guilt against the applicants. It was pointed out that the applicants had left the base with the vehicle to change the battery for proper communication with senior officers as the battery was non-functional. This plea of the applicants was found untenable as the PW-6 H.C. Maha Singh has stated that the battery No. SWE-139 which, according to the applicants, was required to be



changed as the same was non-functional, was issued to PCR Van No. Z-28 on 18th November, 1995 and the same battery was again issued to PCR Van No. Z-17 on 20th November, 1995 at 9.30 a.m. without recharging and the said battery remained in that van till 1.45 p.m. on 22nd November, 1995. In our view, the statement of the aforesaid witness proves that the plea raised by the applicants to justify their absence from the place of their duty is false. In the circumstances, the finding of guilt as found by the disciplinary authority and confirmed by the appellate authority cannot be successfully assailed in the present application. It is to be borne in mind that we are not a court of appeal. It is, therefore, impermissible to reappreciate the evidence. The finding of guilt is based on evidence which is on record. The said evidence has found favour with the disciplinary authority. The said finding has been affirmed by the appellate authority. No interference is, therefore, called for in the present application.

3. Present application, in the circumstances, is dismissed.


(Ashok Agarwal)
Chairman


(R. K. Ahuja)
Member (A)

/as/