

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 1202/95

12

New Delhi this the 25th day of August 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mrs. Shanta Shastry, Member (A)

Shri Bansri Lal
S/o Shri Rasila Ram,
R/o H-31, Police Station,
Mandir Marg,
New Delhi-110 001.

...Applicant

(By Advocate: Shri M.K. Gupta)

Versus

1. Commissioner of Police, Delhi.
Police Headquarters,
Indraprastha Estate,
New Delhi-110 002.

2. Additional Commissioner of Police (OPS),
Police Headquarters,
New Delhi-110 022.

3. Deputy Commissioner of Police,
Police Control,
Police Headquarters,
New Delhi-110 002.

...Respondents

(By Advocate: Shri Anil Singhal proxy
for Shri Anoop Bagai)

ORDER (Oral)

By Reddy, J.-

Heard the counsel for applicant and the
respondents.

The applicant is a Constable in Delhi Police. It was alleged that on 19.10.92 he was on duty at PCR V-100 from 8 a.m. to 8 p.m. One Head Constable Lal Babu Singh had reached the place and he noticed that the service revolver alongwith 5 cartridges had been misplaced by I/C Van ASI Niranjan Singh and the entire staff were smelling alcohol from their mouth. The entire staff were medically examined and they were found to be

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smelling Alcohol by the Medical Officer. On this misconduct the applicant alongwith others was placed under suspension on 22.10.92. Subsequently the applicant was reinstated by an office order dated 18.11.92. The departmental proceedings have been initiated against the applicant and the Enquiry Officer after examining several witnesses during the course of the enquiry submitted his report dated 2.3.93 in which the Enquiry Officer found that the charge has been fully proved. The disciplinary authority, on the basis of the Enquiry officer's report and other material on record agreeing with the findings of the Enquiry officer and taking the lenient view in the matter, ordered by order dated 29.3.93, that the pay of the applicant be reduced by 3 stages from Rs. 1110 to Rs. 1050/- p.m. in the present time scale of pay with immediate effect "for failure to inform PCR about misconduct of his colleagues for a period of three years and on expiry of this period the reduction will have the effect of postponing his future increments of pay". The applicant appealed against the order but it ended in dismissal, by order dated 20.9.93. The applicant, therefore, approached this Tribunal in this OA challenging the orders of the Disciplinary Authority and the Appellate Authority.

We have carefully perused the records in the case. Learned counsel for the applicant raised several questions as to the validity of the findings of the Enquiry Officer and the Disciplinary Authority. The law is well settled

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that this Tribunal cannot go into the question as to the findings that were given by the Enquiry Officer on the basis of the evidence led in the enquiry and this Tribunal cannot act as an appellate court and express its own opinion in substitution to the findings given by the Enquiry Officer or the Disciplinary Authority. This contention therefore, does not merit any further consideration.

The second contention appears to be substantial. It is contended that the applicant was penalised for his failure to inform PCR about misconduct of his colleagues whereas the said misconduct did not form part of the charge levelled against him. Learned counsel for respondents, however, submits that the charge is ~~of~~ a comprehensive one and it takes into its fold the misconduct for which the applicant was penalised. We have already seen the charge that was levelled against the applicant. The specific ^{He Lal Babu Singh had noticed} allegations averred were that ^{one - ASI -} Niranjan Singh noticed the missing of 5 Cartridges from the revolver and that the entire staff were smelling Alcohol and that, subsequently, on medical examination they were found to have "Smell of Alcohol". Thus the gravamen of the charge was about the consumption of liquor. The applicant in his defence had refuted the allegation. Learned counsel for applicant contends that this smelling of Alcohol was the result of medication which he was taking for tooth pain and that medicine has contained some percentage of the Alcohol. This

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contention cannot be accepted at this stage because the applicant has not stated this reason to the Doctor when he was examined. Be that as it may, the question that is necessary to decide in this case is whether the applicant can be found fault with and penalised for his failure to inform PCR about misconduct of his colleagues regarding consumption of Alcohol. As stated above, there is no such misconduct alleged against the applicant. The applicant cannot be penalised for vague charges unless it was specifically put to him in the charge and he was permitted to submit his explanation to the said charge. The applicant was not asked to explain about his failure to inform PCR about the consumption of alcohol by his colleagues. It should be noticed that he was not Head Constable. He was only Constable alongwith others and it was not his duty to inform about the other Constables. In the circumstances, we find that the findings given by the Disciplinary Authority and for which he was penalised, are ~~totally~~ perverse. It is also seen from the grounds of appeal that the applicant has raised before the Appellate Authority regarding this ground but the same was rejected. In the circumstances the impugned orders of Disciplinary Authority and the Appellate Authority are set aside.

The O.A. is, accordingly, allowed. No costs.

Shanta S.
(Mrs. Shanta Shastry)
Member(A)
cc.

Madhav Reddy
(V. Rajagopala Reddy)
Vice-Chairman (J)