

Central Administrative Tribunal  
Principal Bench

O.A. 2198/96

New Delhi this the 17th day of April, 2000

(9)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).  
Hon'ble Shri V.K. Majotra, Member(A).

Mahavir Singh,  
Sub-Inspector,  
No. 1164/D,  
Ist Bn. DAP, Delhi.

Applicant.

(None present)

Versus

1. The Administrator,  
Govt. of NCT of Delhi,  
Raj Niwas, Delhi.
2. Senior Additional Commissioner  
of Police,  
AP&T, MSO Building,  
Police Headquarters,  
New Delhi.
3. Dy. Commissioner of Police,  
Ist Bn. DAP, Delhi.
4. Shri Shamsher Singh,  
Asstt. Commissioner of Police,  
Ist Bn. DAP, Delhi.
5. Commissioner of Police,  
Police Headquarters,  
New Delhi. .... Respondents.

(Shri Mange Ram, Head Constable, Deptt. Official)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the penalty order, imposing on him forfeiture of six years approved service permanently. This order has been passed by the appellate authority on the appeal filed by the applicant against the disciplinary authority's order, which had imposed the penalty of forfeiture of two years approved service permanently by order dated 10.4.1995. The appellate authority's order is dated 30.4.1996 which has been impugned in the present case.

(b)

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2. The brief relevant facts of the case are that a departmental inquiry was instituted against the applicant under the provisions of the Delhi Police (Punishment and Appeal) Rules, 1980, (hereinafter referred to as 'the Rules') issued under the provisions of the Delhi Police Act, 1978. The charges against the applicant were that while he was on duty as Incharge Escort Party to escort the cash remittance from RBI New Delhi to State Bank of Patiala, Una (HP) on 23.3.1994, he was alleged to be found in a drunken condition. He was also alleged to have demanded from Shri R.M. Modgil, Head Cashier of the Bank to provide extra Vans for escort party. It was further alleged that he had asked the driver to park the bus on one side of the road and he wanted to sleep along with escort party. When the matter was brought to the notice of the Superintendent of Police, Una (HP), he had sent the Deputy Superintendent of Police to the spot to handle the situation and also get the applicant medically examined. The medical opinion was that the applicant had consumed alcohol. The applicant was placed under suspension by order dated 17.5.1994 and later reinstated in service by order dated 29.6.1994.

3. The departmental proceedings which were initiated against the applicant were completed and the applicant was found guilty of the charge levelled against him. Agreeing with the findings of the Inquiry Officer, the copy of which had been supplied to the applicant, the disciplinary authority had given him an opportunity to make his submissions. The respondents have stated that the applicant was heard in person by the disciplinary authority in Orderly room, wherein he had submitted that he had neither consumed

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liquor/alcohol nor misbehaved with any bank official. The disciplinary authority, after taking into account the relevant facts and circumstances of the case awarded the punishment of forfeiture of two years service permanently entailing proportionate reduction in the pay of the applicant and his suspension period was also decided as 'Not Spent On Duty'. Against this order, the applicant submitted his appeal to the appellate authority. The appellate authority issued a show cause notice under Rule 25(d) of the Rules, proposing to enhance the punishment to that of removal from service. The applicant had also submitted his reply. The appellate authority has thereafter passed a detailed and speaking order enhancing the punishment given by the disciplinary authority to one of forfeiture of six years approved service permanently. The respondents have submitted that the appellate authority has, in fact, taken a lenient view in the matter.

4. The applicant has taken a number of grounds in challenging the disciplinary proceedings and the subsequent penalty orders issued against him. These grounds have been denied by the respondents, who have submitted that the punishment imposed by the appellate authority has been imposed, based on the evidence and other records in the disciplinary proceedings. According to them, they have also followed the relevant Rules and instructions.

5. One of the grounds taken by the applicant is that the Inquiry Officer had failed to take note of the evidence on record to the effect that the applicant had not consumed liquor and had not misbehaved, besides the evidence to the effect that he was a patient of Asthma and used to take

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'Glycodin' which contains alcohol contents. He has also submitted that no opportunity was given to him before appointment of the Inquiry Officer and the proceedings are, therefore, illegal, mala fide and in violation of the principles of natural justice. He has also questioned the findings of the Inquiry Officer. He has submitted that the disciplinary authority has not given any reasons for ignoring the pleas taken by him. Another submission is that the appellate authority has failed to appreciate all the grounds taken by him in the appeal and he has not given any reasons for disagreeing with the findings of the disciplinary authority when he proposed to enhance the punishment. He has also questioned the findings of the appellate authority and that he had misdirected himself in stating that the Inquiry Officer had held the charge to be proved. According to him, no such charge has been proved against him.

6. All the aforesaid averments have been denied by the respondents in their reply. According to them, the inquiry proceedings have been held not only in accordance with the rules but also in accordance with the principles of natural justice. They have also submitted that the impugned punishment order is a speaking order. They have submitted that the medical examination of the applicant by the Doctor has revealed that the applicant had consumed alcohol, which was proved beyond doubt that he was drunk during the duty hours. They have, therefore, submitted that the charge was fully proved in the course of the departmental proceedings. The appellate authority, while enhancing the punishment has given detailed reasons and the order is legal. They have, therefore, submitted that the O.A. may be dismissed.

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7. We have also seen the rejoinder filed by the applicant who has more or less reiterated the submissions made in the O.A.

8. On perusal of the impugned appellate authority's order, it is seen that that authority has dealt with the contentions raised by the applicant in the appeal. The order is a detailed and speaking order. It has also discussed the evidence which was produced before the departmental proceedings in which it has been held that the applicant had consumed alcohol while he was on escort duty. Rule 25(d) of the Rules provides that on appeal, the appellate authority may disagree with the disciplinary authority and enhance the punishment after issue of a fresh show cause notice to the appellant and affording him a reasonable opportunity (including personal hearing if asked for) against the proposed punishment. In the present case, a show cause notice had been issued by the appellate authority under this provision proposing to enhance the punishment to that of removal from service to which a reply was given by the applicant. However, the appellate authority finally has issued the penalty order of forfeiture of six years service permanently to the applicant which is an enhancement of the punishment awarded by the disciplinary authority but lesser than what he had proposed earlier. As the provisions of Rule 25(d) of the Rules have been fully complied with, we see no justification to interfere in the matter on this ground.

9. Regarding the other grounds taken by the applicant, we are also unable to agree with him that there

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has been any violation of the principles of natural justice in this case as the applicant has been afforded reasonable opportunity to put forward his defence during the disciplinary proceedings before the competent authorities. The appellate authority's order, which has been impugned in this O.A., has been passed, taking into account the evidence produced during the disciplinary inquiry and the other records in the DE file. The appellate authority has also heard the applicant in the Orderly room on 19.4.1996 before passing the impugned order and has dealt with the various contentions raised by the applicant in his reply. The disciplinary authority had also heard the applicant earlier before passing his order of punishment.

10. Taking into account the facts and circumstances of the case and the settled law regarding interference in such matters by the Courts/Tribunal in exercise of the power of judicial review, we do not find any justification to allow this application. The order passed by the appellate authority is neither perverse, in violation of the statutory rules, the principles of natural justice nor in any other way illegal. This is not a case of no evidence against the applicant in the Departmental Enquiry proceedings and we cannot also re-appreciate the evidence so as to come to a different conclusion from that arrived at by the competent authorities. (See the observations of the Supreme Court in **Union of India Vs. Parma Nanda** (AIR 1989 SC 1185), **Union of India Vs. Upendra Singh** (JT 1994 (1) SC 658), **Government of Tamil Nadu Vs. A Rajapandian** (AIR 1995 SC 561) and **State Bank of Patiala & Ors. Vs. S.K. Sharma** (JT 1996 (3) SC 81).

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722). We have also considered the other grounds taken by the applicant but do not find any merit in the same to justify any interference in the matter.

8. In the result, for the reasons given above, the O.A. fails and is accordingly dismissed. No order as to costs.

V.K. Majotra

(V.K. Majotra)  
Member(A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)  
Member(J)

'SRD'