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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH  
NEW DELHI.

O.A.No. 357/1996

New Delhi: this the 28<sup>th</sup> day of January, 1997.

HON'BLE MR.S.R.ADIGE, MEMBER(A).

HON'BLE DR.A.VEDAVALLI, MEMBER(J).

Ranbir Singh,  
S/o Shri Bheem Singh,  
R/o Vill. & PO Hulla Harry,  
Barwasani,  
Distt. Sonapat,  
Haryana.

..... Applicant.

(By Advocate: Shri G.C.Lalwani ).

Versus

1. NCT of Delhi through  
Chief Secretary,  
5, Shyam Nath Marg,  
Delhi.

2. Commissioner of Police,  
Police Headquarters,  
Vikas Marg,  
New Delhi.

..... Respondents.

(By Advocate: Shri Raj Singh).

JUDGMENT

BY HON'BLE MR.S.R.ADIGE MEMBER(A).

Applicant has impugned the Disciplinary Authority's order dated 18.5.95 (Annexure-4) awarding punishment of withholding one annual increment on temporary basis and treating the suspension period from 26.8.93 to 28.4.95 as not spent on duty, and the appellate's order dated 6.2.96 (Annexure- 8) increasing the punishment to one of removal from service.

2. A departmental enquiry was initiated against the applicant vide order dated 19.10.95 on the allegation that on the night of 20/21.8.93 as Motor-Cycle rider he took Govt. Vehicle No. DBL-2661 from M.T.Park V Battalion DAP after collecting the keys from the drivers' barrack kept by Constable (Driver) Banni Singh and went to Hauz Quazi with some ulterior motive along with one other

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person who could not be identified. Then he intercepted Truck No. USC-8265 at Nukkar Chowri Bazar and demanded entry money from the driver of the truck. On seeing SHO Hauz Quazi approaching he managed to escape from the spot after hitting a rickshaw and was chased by the Police Control Room Staff, but could not be apprehended. When PCR Staff along with others checked the barracks of drivers of V Battalion they found the applicant taking his meal at 1-30 a.m. which was unusual.

3. The Enquiry Officer held the charges as proved. Agreeing with the E.O's findings, a copy of the same was served upon the applicant, and the representation filed by him was considered by the Disciplinary Authority, who also gave him a personal hearing. Rejecting the defence taken by the applicant the Disciplinary Authority issued impugned order dated 18.5.95.

4. Thereupon the applicant filed an appeal. The appellate authority disagreeing with the Disciplinary Authority and holding that the applicant had not been adequately punished, in exercise of the powers vested in him under Rule 25(1) (d) Delhi Police (P & A) Rules issued show cause notice dated 26.10.95 for enhancement of the punishment already awarded by the Disciplinary Authority.

5. The applicant filed his reply to the show cause notice and after considering the same, as also the entire record in the D.E. file held that the act committed by the applicant in removing the Govt. vehicle from the M.T. Park, driving to Hauz Quazi and demanding money from a truck driver for entry into Nukkar Chowri Bazar was an act of grave

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indiscipline and irresponsibility and accordingly ordered his removal from service by impugned order dated 6.2.96.

6. The grounds taken are that the truck driver did not support the SHO Hauz qazi's version and did not confirm the story regarding demand of money from him; the SHO's report is itself unreliable; the applicant had a valid explanation for taking his meal at 1 a.m; it is unbelievable that the applicant would have taken the vehicle key as the same is kept in a locked room with a guard on duty; and no witness had identified the applicant as the driver of the truck. Each of these grounds involves reappraisal of evidence which is beyond the jurisdiction of the Tribunal as this is not a Court of Appeal. Suffice it to say that the Disciplinary Authority in his impugned order dated 18.5.95 has stated that at the identification parade held by SI Vikram Singh on 23.8.93 at CRPF Camp Vijay Ghat. H.C. Rajeshwar Tiwari and S.I. Sunda Ram of CRPF unambiguously identified the applicant as the one who was in a drunken state and was demanding money from the truck driver. It is well settled that in a domestic inquiry the degree of proof required to bring home the charge against a delinquent, is quite different from that required in a criminal case, and it is sufficient if the preponderance of probability points to the guilt of the delinquent.

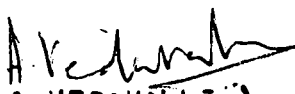
7. Manifestly therefore this is not a case of no evidence. Furthermore the appellate authority has followed the rules while enhancing the punishment and has also categorically recorded in his appellate order that the applicant's misconduct constitutes grave indiscipline and irresponsibility.

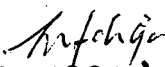
8. In UOI and others Vs. Upendra Singh (1994)

27 ATC 200 the Hon'ble Supreme Court while quoting the decision in HB Gandhi, Excise and Taxation Officer-cum-Assessing Authority, Karnal Vs. Gopi Nath & Sons 1992 Supp.(2) SCC 312 held that

"Judicial review, it is trite, is not directed against the decision but is confined to the decision-making process. Judicial review cannot extend to the examination of the correctness or reasonableness of a decision as a matter of fact. The purpose of judicial review is to ensure that the individual receives fair treatment and not to ensure that the authority after according fair treatment reaches, on a matter which it is authorised by law to decide, a conclusion which is correct in the eyes of the Court. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. It will be erroneous to think that the Court sits in judgment not only on the correctness of the decision making process but also on the correctness of the decision itself."

9. In this background, we find no good reasons to warrant judicial intervention in the OA. The OA is dismissed. No costs.

  
( DR.A.VEDAVALLI )  
MEMBER(J)

  
( S.R.ADIGE )  
MEMBER(A).

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