

Central Administrative Tribunal, Principal Bench

Original Application No.2707 of 1997

New Delhi, this the 29th day of May, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice Chairman  
Hon'ble Mr. V. K. Majotra, Member (Admnv)

Jai Bhagwan, Constable/ Driver No.1857/DAP,  
2nd Bn. Malviya Nagar, New Delhi.

- Applicant

(By Advocate - None)

Versus

Commissioner of Police, Delhi, Police  
Headquarters, I.P. Estate, New Delhi.

- Respondents

(By Advocate Shri A.K. Chopra through proxy  
counsel Shri R.K. Singh)

O R D E R (Oral)

By Reddy, J. (Vice Chairman)

The applicant while he was working as Constable (Driver) in Delhi Police was served with a charge sheet. It was alleged that he made a telephone call at the residence of Shri R.D. Mittal, ACP Headquarters alleging that Head Constable Om Parkash and some other Drivers were consuming alcohol in the tent pitched behind barrack no.7. of 2nd Bn. DAP Delhi. On the said information, senior officers were sent to check and report. They made a report stating that the information was incorrect. Alleging that the applicant made a false telephone call causing inconvenience to the senior officers with ulterior motive, a departmental enquiry was initiated against him. After holding enquiry, finding that the charges were established, the disciplinary authority vide order dated 4.8.1995 imposed the punishment of forfeiture of two years approved service temporarily for a period of two years entailing reduction in his pay. It was also ordered that the applicant will not earn increments of pay during the period of reduction and after the expiry of this period the reduction will not have the effect of postponing his

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future increments of pay. On an appeal filed by him, the appellate authority considering that it was a case of enhancement of punishment, ~~he~~ issued notice for enhancement of the punishment, which was, however, withdrawn, while rejecting the appeal by an order dated 10.1.1996. The revision filed by the applicant was also rejected. The OA is, therefore, filed questioning the punishment awarded and confirmed by the appellate and revisional authorities.

2. None appears for the applicant either in person or through counsel. Since the matter is of 1997, we have proceeded to dispose of the case on merits on the basis of the pleadings available on record and on hearing the counsel for the respondents.

3. The learned counsel for the respondents submits that the enquiry officer arrived at the conclusion based upon the evidence of prosecution witnesses and the defence witnesses. The disciplinary authority agreeing with the findings of the enquiry officer imposed the punishment and his order has been confirmed by the appellate and revisional authorities. Hence the Tribunal should not interfere with the findings arrived at by the authorities.

4. We have gone through the pleadings carefully. The enquiry officer considered the evidence of both PWs and DWs in extenso and discussed the same in his report. He has given cogent reasons for concluding that the charge stood proved. The disciplinary authority upon considering the findings of the enquiry officer and the representation made by the applicant against the enquiry

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officer's report, agreed with the findings of the enquiry officer and imposed the punishment as stated supra. The said order has been confirmed by the appellate and revisional authorities.

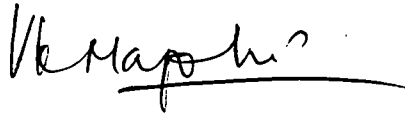
5. The contentions raised in the OA relate to appreciation of evidence by the enquiry officer. This Tribunal in exercise of judicial review jurisdiction cannot go into the question of appreciation of evidence, ~~substantially~~ <sup>sufficiency of it</sup> or otherwise, on the basis of which the enquiry officer had arrived at the conclusion.

6. The applicant states that the evidence of DWs were wrongly rejected by the enquiry officer. We have gone through the enquiry officer's report. The enquiry officer has considered the evidence of DWs and has given reasons for rejecting their evidence. Hence the contention is not accepted.

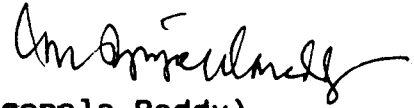
7. It is alleged by the applicant that the appellate authority as well as the revisional authority have mechanically disposed of the appeal and the revision respectively. This contention is not borne out from record. We have perused the orders of the appellate authority as well as the revisional authority. In fact, considering the facts and circumstances of the case, the appellate authority has issued notice of enhancement of punishment but it was, however, withdrawn, while rejecting the appeal. On merits of the case, the revisional authority has also given elaborate reasons for its conclusion. It cannot, therefore, be said that they have not applied their mind to the facts.



8. In the result, the OA is liable to be dismissed and is accordingly dismissed. There shall be no order as to costs.



(V.K. Majotra)  
Member (Admnv)



(V. Rajagopala Reddy)  
Vice Chairman

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