

X

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2906/97

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

New Delhi, this the 31st day of May, 2000

HC Ram Avtar
s/o Shri Sudershan Sharma
r/o Vill. & P.O. Budhera
District Gurgaon
Haryana.

AND

Const. Randhir Singh
s/o Sh. Rambir Singh
r/o 6, Type-II, PTS
Jharoda Kalan
Delhi - 110 072. ... Applicants
(By Shri Ajesh Luthra, Advocate) Vs.

1. Union of India through
Secretary
Ministry of Home Affairs
North Block
New Delhi - 110 001.
2. The Commissioner of Police
MSO Building
I.P.Estate
New Delhi.
3. The Additional Commissioner of Police
Southern Range
MSO Building
I.P.Estate
New Delhi.
4. The Deputy Commissioner of Police
South West District
P.S. Vasant Vihar
New Delhi.
5. Shri R.K.Meena
ACP
Enquiry Officer
Service to be effected
through O/o Commissioner of Police
MSO Building
I.P.Estate
New Delhi. .. Respondents
(By Shri Harvir Singh, Advocate)

O R D E R (Oral)

By Reddy. J.

The applicant, H.C. Ram Avtar and Constable
Randhir Singh, while posted at HAA Branch, were
alleged to have failed to maintain absolute integrity



and sanctity of the office inasmuch as on 28.3.1992, one Dharambir, Gardner had consumed liquor in HAA Branch but the applicants failed to inform the matter to the senior officers in the Police Station at Vasant Vihar.

2. They were proceeded with in a common departmental enquiry along with another, on the above allegations and the enquiry officer found them guilty of the charge. Agreeing with the findings of the enquiry officer, the disciplinary authority inflicted the punishment of forfeiture of service for two years in the case of Ram Avatar and one year in the case of Constable Ranbir Singh. The pay of the Head Constable was reduced to two stages from Rs.1175 to Rs.1075 in the time scale of ^{pay 4} for a period of two years with immediate effect. He was also not to earn increments of pay during the period of reduction. The suspension period dated 29.4.1992 to 24.11.1994 was treated as period not spent on duty. The pay of Constable Randhir Singh was reduced by one stage from Rs.1030/- to Rs.1010/- in the time scale of pay for a period of one year with immediate effect and that he would not earn increments of pay. The suspension period from 29.4.1992 to 24.11.1994 was treated as period not spent on duty by order dated 15.12.1995. The appellate authority confirmed the order by its order dated 19.12.1996. The instant OA is filed questioning the above penalties imposed against the applicants.

3. The learned counsel for the applicants submits that it was a case of 'no evidence'. It is further contended that as their immediate superior ASI



Dharambir was in the Police Station and he was also aware of the consumption of liquor, the question of information to the superiors would not arise. The learned counsel lastly contended that his suspension period should have been treated as period spent on duty, as the period of suspension was treated with regard to one Dharambir, ASI, as period spent on duty and hence their case should not have been discriminated.

4. The learned counsel for the respondents submits that as the witnesses have clearly deposed about the failure of the applicants to inform the superior officers, it is not open to Tribunal to interfere with the findings of the disciplinary authority which are based on evidence. The enquiry has been held consistently with the procedure as required under the rules.

5. We have given anxious consideration to the pleadings as well as arguments advanced by the learned counsel. We have perused the enquiry report. Seven witnesses were examined for prosecution and five witnesses for the defence. He has marshalled the entire evidence and discussed the same, giving the findings with cogent reasons. The disciplinary authority, after going through the departmental enquiry file, the evidence on record and the report given by the enquiry officer as well as the representations made by them, agreed with the findings of enquiry officer. The applicants were also heard by the disciplinary authority. The plea of the applicant, Shri Randhir Singh that nobody had drunk



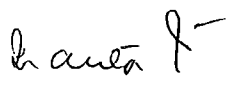
the liquor in his presence and he was only present in the office to do some typing work was not accepted. Shri Ram Avtar pleaded that he was away in PHQ to obtain some sanction orders and returned to the office at 6.30 p.m. whereas the fall of gardner took place at about 8.30. p.m. and that he helped in carrying the Gardner to third floor and gave him some drinking water. However, considering the voluminous evidence that is available in this case, he found himself agreeable with the findings of the enquiry officer and consequently imposed the punishment. In the exercise of the judicial review jurisdiction the Tribunal cannot interfere with the findings of the disciplinary authority. The contention that the applicant had informed to the immediate superiors was also not found favour by the enquiry officer. It should be noted that immediate superior ASI Dharambir was also jointly found drinking along with the applicants and he was also one of the culprits. The applicants cannot be absolved on the ground that the immediate superior was also aware of the consumption of liquor. We do not, therefore, see any basis in the contention that there was no evidence in this case.

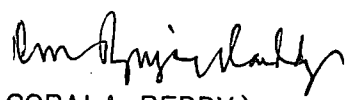
6. The last contention of the learned counsel for the applicant appears to be ^L ~~of~~ ^{ca} substantiated. His grievance is that the disciplinary authority has practised discrimination in treating the applicants' period of suspension as not spent on duty whereas in respect of Mr. Dharambir, ASI his period was treated as period spent on duty from 29.4.1992 to 24.11.1994. It is not in dispute that all of them were placed under suspension by the same order, on the same



allegations and by the impugned order all were penalised. The only ground on which the period of suspension was treated as period spent on duty in case of Mr. Dharambir, ASI was that he was acquitted by the criminal court in a case registered under Section 302 read with 34 IPC. In our view, this reasoning appears to be wholly irrelevant. The basis for placing him under suspension was not that he was accused in a criminal case. But it was on the allegation that the enquiry was pending against them in the departmental enquiry. In the circumstances, the same treatment should have been meted out to the applicants as was done in the case of Shri Dharambir, ASI in respect of the period of suspension. The action of the respondents, in our view, is violative of Article 14 and 16 of the Constitution. In the circumstances, the impugned order treating the period of suspension of the applicant as period not spent on duty is quashed and we direct that the period from 29.4.1992 to 24.11.1994 should be treated as period spent on duty for all purposes with consequential benefits. However, we do not find any merit in the OA except to the extent stated supra.

7. The OA is, therefore, disposed of accordingly. No costs.


(SMT. SHANTA SHASTRY)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/