

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(2)

O.A.No.2307/1994

Thursday this the 22nd day of July, 1999

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. S.P. BISWAS, ADMINISTRATIVE MEMBER

Mange Ram S/o Shri Khichu Mal Sharma,
No.1056/NW
No.8255/DAP TR Bn.DAP
Teen Murti Lane,
New Delhi res.at H.No.A.9
Gali No.1, Meet Nagar
Delhi.

...Applicant

(By Advocate Mr. G.D. Bhandari)

Vs.

1. Government of N.C.T. Delhi
through the Secretary Home (NCT)
5, Sham Nath Marg,
Delhi.
2. The Commissioner of Police,
Delhi Police, Police Headquarters,
Delhi.
3. The Additional Commissioner of
Police, Northern Range,
Delhi.

...Respondents

(By Advocate Mr. Bhaskar Bhardwaj)

The application having been heard on 22.7.1999 the Tribunal
on the same day delivered the following:

O R D E R

HON'BLE MR.A.V. HARIDASAN, VICE CHAIRMAN

The applicant Mange Ram, a Constable under
the Delhi Police is aggrieved by the Order
Annexure.AI by which on the completion of a
departmental proceedings against him, he was awarded
a penalty of censure and the period of suspension was
treated as period not spent on duty. Aggrieved by
this order the applicant filed an appeal to the

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Additional Commissioner of Police. The Additional Commissioner of Police on consideration of the appeal found that the penalty imposed on the applicant was too mild and inadequate and therefore under the impugned order dated 27.5.94 awarded to the applicant a penalty of forfeiture of two years approved service permanently for a period of two years with consequential reduction in his pay. The applicant has, therefore, filed this application impugning these two orders. It is alleged in the application that the enquiry was held in an illegal manner by appointing the Enquiry Officer before the charge was framed, that the finding that the applicant was guilty was arrived at with no evidence at all, that the punishment was enhanced by the appellate authority without following the procedure laid down in the rules in that regard and that the impugned orders are not sustainable.

2. The respondents though have filed a detailed reply statement refuting the various allegations, conceded that the enhancement of the penalty by the appellate authority was not sustainable in view of the fact that the provisions of Rule 25 were not followed. They have also indicated that the penalty has been recalled and the applicant has been advised to file an appeal ^{against} ~~against~~ the original penalty of censure, if he was so advised. This was done subsequent to the filing of this application.

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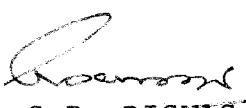
3. Having gone through the pleadings in this case and hearing the learned counsel on either side, we find that the appellate authority was wrong in enhancing the penalty without following the rules. Wisdom dawned on the respondents after filing this application and they themselves recalled the Annexure A2 order. What remains is the order of censure. The two elements of the charge against the applicant were that he remained absent from duty spot which led to vending of illicit liquor and that he incited the public to attack the raiding party. The enquiry officer had in his report stated that that part of the charge which states that the applicant incited the public has not been established and that what was established was only that he has deserted the duty spot without prior approval or permission of the superior officer.

4. It was accepting the above finding that the disciplinary authority awarded to the applicant a very minor penalty of censure taking into account the clean record of service of the applicant. That the applicant has left the duty spot without the prior consent of or informing the superiors is not in dispute because the applicant himself has stated in the application that coming to know from the liquor vent that no

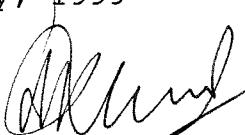
much sale would take place, he went for a round. Under these circumstances finding that he deserted the duty spot without prior approval of or intimation to his superiors has been established, the penalty of censure was awarded to him. We are satisfied that it does not call for interference.

5. In the light of what is stated above finding no merit in this application, we dismiss the same without any order as to costs.

Dated the 22nd day of July, 1999



S.P. BISWAS
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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