

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.No.1413/1994

New Delhi, this 20th day of July, 1999

(9)

Hon'ble Shri A.V. Haridasan, VC (J)  
Hon'ble Shri S.P. Biswas, Member (A)

Niranjan Singh (Alias Niranjan Lal)  
Vill. & P.O. Mataudi  
Dt. Gurgaon (Haryana)

.. Applicant

(By Shri B.S. Charya, Advocate)

Versus

1. Commissioner of Police  
Police Hqrs., IP Estate  
New Delhi

2. Secretary  
M/ Home Affairs, North Block  
New Delhi

3. Addl. Commissioner of Police (S&T)  
Police Hqrs., IP Estate  
New Delhi

.. Respondents

ORDER (oral)

Hon'ble Shri S.P. Biswas

The applicant, a constable in Delhi Police, is before us in a second round of litigation challenging the order at Annexure A-1 dated 19.1.93 by which he has been dismissed from service with immediate effect. The said order also stipulates that the period of suspension from 1.1.87 to 19.5.88 is to be treated as dies-non i.e. period not spent on duty.

2. Shri B.S. Charya, learned counsel for the applicant seeks to assail the aforementioned order of the disciplinary authority (DA for short) as also the appellate order on the basis of following grounds. Firstly, the summary of allegations as set out by the respondents is vague and ambiguous because of inadequate particulars. The doctor who had examined the applicant was not allowed to be cross-examined by the applicant.

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Neither the enquiry officer (EO for short), nor the DA or the appellate authority applied their minds to this vital aspect of the proceedings and came to the conclusion abruptly about applicant's misconduct. Secondly, when the EO Shri Ram Karan has been replaced by Shri Bhagwant Singh, respondents should have conducted *de novo* enquiry. Thirdly, the DA has not applied his mind to the various contentions made by the applicant in his representation dated 11.11.92. In this representation, the applicant had brought out two different issues, namely that there was no evidence nor any specific finding to hold that the applicant was guilty. The allegation against the applicant being found under intoxication does not stand proved, inasmuch as he has been falsely implicated. Secondly, the learned counsel drew our notice to the order of punishment to say that the applicant with an unblemished service did not deserve severe punishment that takes away his livelihood for ever.

3. Shri Rajinder Pandita, learned counsel for respondents drew our attention to the seriousness of charge and misconduct established against the applicant. He argued that the fact that the applicant was found unauthorisedly checking vehicles in Azad Nagar Chowk area and that he was under the influence of liquor have been established fully following medical examination by the appropriate medical authority, who had given a certificate to that effect.

-/- (1)

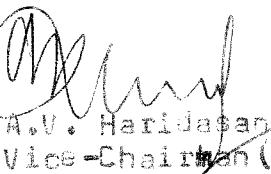
4. We have heard the learned counsel for both parties at length.

The issue that falls for determination is whether the case, based on the materials available before us, is vitiated by no evidence and whether the punishment awarded is not commensurate with the gravity of misconduct. With reference to the first issue, we have no doubt that the proceedings were held as per the provisions of Delhi Police (Punishment & Appeal) Rules, 1980 and reasonable opportunities were given to the applicant. The charge that the applicant was involved in intoxication has been established beyond any shadow of doubt by examination of the witnesses. In respect of applicant's plea regarding quantum of punishment, we are guided by the judicial pronouncements of the apex court in the case of Sanchalkshri & Anr. Vs. V.R. Mehta & Anr. 1999(2) AIR 75. It has been held that Court/Tribunal should not interfere with administrative decisions as regards quantum of punishment unless the same has been found to be illegal or suffers from arbitrary procedure or against law. The same view was held by the apex court in the case of B.C. Chaturvedi V. UOI & Ors. (1995) 6 SCC 749 viz. "The High Court/Tribunal while exercising the power of judicial review cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the DA or the appellate

authority shocks the judicial conscience of the High Court/Tribunal, it would only then be appropriate to mould the reliefs prayed by directing the DA to reconsider the penalty imposed. The said authority may in exceptional and rare cases impose appropriate punishment with cogent reasons in support thereof\*.

5. Keeping in mind the position of law on the issues involved as mentioned above, we do not find it a fit case warranting our interference in the matter. The DA is, therefore, dismissed on merits leaving the parties to bear their own costs.

  
(S.P. Biswas)  
Member (A)

  
(A.V. Haridasan)  
Vice-Chairman (J)

/gtv/