

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA.No.1322 of 2000

New Delhi. this 30th day of March 2001

HON'BLE SHRI KULDIP SINGH, MEMBER (J)  
HON'BLE SHRI M.P. SINGH, MEMBER (A)

7

Hardev Parkash  
Const. No. 584/W  
West District Lines  
New Delhi

... Applicant

(By Advocate: Shri Sama Singh)

versus

1. Commissioner of Police  
Delhi Police Headquarters  
M.S.O. Building, I.P. Estate  
New Delhi-110002
2. Joint Commissioner of Police  
Southern Range  
Delhi Police Headquarters  
M.S.O. Building, I.P. Estate  
New Delhi-110002
3. Addl. Commissioner of Police  
West District, Rajouri Garden  
New Delhi

... Respondents

(By Advocate: Shri Ram Kanwar)

ORDER

By Shri M.P. Singh, M(A)

Applicant has filed this OA challenging the order dated 27.7.1998 passed by respondent no.3 and order dated 17.5.1999 passed by respondent no.2.

2. The brief facts of the case are that the applicant, a Constable in Delhi Police, was detailed for duty at Uttam Nagar Terminal on 27.11.1997. During the patrolling, he was found absent from his duty and was marked absent vide D.D.No.35-A dated 27.11.1997. At 9.42 p.m. an

*mb*

information was received from PCR that one Yogesh Bhatia, resident of C-437 Vikaspuri informed that one policeman bearing Belt No.584/W had picked up quarrel with public on the road in front of C-Block, Vikaspuri. On receipt of information, SI Sultan Singh reached the spot where Shri Yogesh Bhatia handed over a belt bearing No.584/W to the SI and told that the Constable bearing that belt number had quarrelled and misbehaved on the road in front of C-Block, Vikaspuri with the public. On enquiry, the belt was found to be of the applicant and he was sent to D.D.U. Hospital for medical examination in which doctor opined "Pt. is not under influence of alcohol."


3. For the above lapse, the applicant was placed under suspension on 17.12.1997. Later on, he was reinstated from suspension. A regular departmental enquiry was ordered against him under the provisions of Delhi Police (Punishment and Appeal) Rules, 1980. An enquiry officer was appointed who submitted the report concluding therein that the charge is partly proved as the applicant was found absent from his place of duty when checked by SHO, Vikaspuri. Agreeing with the findings of the enquiry officer, a copy of the findings was served upon the applicant giving him an opportunity to represent against the order within 15 days. The applicant submitted his reply which was received by the disciplinary

MD

authority on 12.6.1998. The disciplinary authority, after taking into consideration the findings of the enquiry officer, the representation of the applicant and other relevant material, passed the order dated 27.7.1998 imposing the penalty to withhold one increment for a period of one year without cumulative effect. The applicant filed an appeal against the order of the disciplinary authority and the same was rejected by the appellate authority on 17.5.1999. 9

4. Heard both the learned counsel for rival contesting parties and perused the records.

5. During the course the arguments, learned counsel for the applicant submitted that the applicant had not wilfully absented himself from duty. He was feeling severe pain in his teeth and had gone to the doctor at C-Block, Vikaspuri to take medicines. After taking the medicines with tea from the shop of DW-1 he went to his place of duty. While he was going to his place of duty, his scooter was hit by a car and he fell down there. From this accident his belt was left at the spot of the accident which was handed over to SI Sultan Singh by Shri Yogesh Bhatia. Learned counsel also submitted that the applicant was medically examined and the doctor opined that



the applicant was not under the influence of alcohol. The charges framed against the applicant have thus not been proved.

10

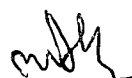
6. On the other hand, learned counsel for the respondents submitted that the applicant was detailed for duty at Uttam Nagar Terminal and during the checking by SHO, Vikaspuri, the applicant was found absent from duty. An enquiry has been held against the applicant in accordance with the rules. The charge has been proved and the disciplinary authority, after taking into consideration, the findings of the enquiry officer, imposed the penalty of withholding ~~next~~<sup>1</sup> one increment for a period of one year without cumulative effect. The OA is, therefore, devoid of merit and the same is liable to be dismissed.

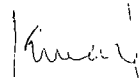
7. After perusing the record, we find that the applicant has been charged for gross misconduct, carelessness, wilful absence and dereliction in the discharge of his official duties. The disciplinary authority has ordered to hold a departmental enquiry which was held in accordance with the rules and instructions. The charge was partly proved. A copy of the enquiry report was sent to the applicant giving him an opportunity to represent against the findings of the enquiry officer and thereafter the disciplinary authority had passed the

*wh*

impugned order imposing the penalty. The applicant was given full opportunity to defend his case and was also heard in Orderly Room on 23.4.1999 by the appellate authority. It is settled law that the Tribunal cannot act as an appellate authority and reappreciate the evidence. We are satisfied that the enquiry had been held against the applicant as per the prescribed procedures and, therefore, there is no ground to interfere with the orders passed by the disciplinary authority and the appellate authority.

8. In the light of the above discussions, the OA is devoid of merit and the same is accordingly dismissed. No order as to costs.

  
(M. P. Singh)  
Member(A)

  
(Kuldip Singh)  
Member(J)

dbc