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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1787 OF 2000

New Delhi, this the 28th day of May, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A. SINGH, ADMINISTRATIVE MEMBER

Shri Virinder Singh
S/o Shri Om Prakash
R/o H.No.76, Gali No.2,
Hyderpuri, Delhi.

....Applicant

(By Advocate : Shri Sachin Chauhan)

Versus

1. Commissioner of Police,
Delhi Police,
Police Headquarters, MSO Building,
I.P. Estate, New Delhi.
2. The Dy. Commissioner of Police,
1st Battalion, DAP,
Kingsway Camp, Delhi.
3. Union of India,
Ministry of Home Affairs,
Government of India,
North Block, New Delhi
Through its Secretary.

....Respondents

(By Advocate : Mrs. P.K. Gupta)

ORDER (ORAL)

SHRI JUSTICE V.S. AGGARWAL:-

Applicant had filed the present Original Application. On an earlier occasion, this Tribunal had dismissed the same in limine on 11.8.2000. The applicant challenged the said order in the Delhi High Court and the same was remitted by the High Court for fresh decision.

2. The applicant has faced the disciplinary proceedings with respect to the following summary of allegations:-

"It is alleged against you Const.
(Drv) Virender Singh 290/DAP that you while

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(IV)

posted in Ist Bn DAP on 3.3.93 was directed by the night CHM H.C. Dalel Sing No.281/DAP to carry out Platoon force of IVth Bn DAP from NPL to PS Kotwali in police vehicle No.DEL-686 and came back to NPL. You Const. Virender Singh (Dvr) No.290/DAP prepared duty slip No.65 himself and got recorded your departure vide DD No.5/B dt. 3.3.93 for CRPF duty, Malviya Nagar at 7.30 AM falsely alongwith the Govt. vehicle DEL-686. Later on you came back and also got recorded your arrival alongwith vehicle at 11.35 AM vide DD No.30-B dated 3.3.93. You have shown journey performed by this vehicle as "NPL to Malviya Nagar to East Distt. area to Malviya Nagar to New Police Lines covering 172 KM which is also false. You had also obtained 120 Lt. diesel in this vehicle from NPL Petrol pump during this duty for ulterior motive. Besides this you had also made false entry in the log book on 2.3.93 showing journey performed by this vehicle as "NPL to Malviya Nagar to East Distt. area to NPL" covering 112 KM vide DD NO.77 and 93 dated 2/3.3.93 whereas there is no departure and arrival of this vehicle alongwith him in the daily diary of that date. This shows that you had shown false entry in the log book with the intention to show consumption of 120 lt. diesel issued to you.

The above act on your part amounts to gross misconduct, forgery and misappropriation of Govt. property which renders you liable for departmental action u/s 21 of Delhi Police Act, 1978."

3. The inquiry officer held that the summary of allegations, which were later transmitted into charge, stood proved. On the basis of the same, the ^{Authority} disciplinary proceedings had dismissed the applicant from service. The applicant preferred an appeal, which was considered by the Additional Commissioner of Police on 31.8.1999. The appellate authority rejected the appeal by recording :-

"Gist of the charge against the appellant is that he misappropriated diesel from vehicle No.DEL-686 while he was on duty on 3.3.93. For this purpose he himself prepared a false duty slip and made false entries in Log Book of the vehicle dated 2/3.3.93 and DD.



(13)

The evidence on record proves the charge against the appellant beyond any doubt. I have also gone through service record of the appellant. He has put in about 11 years of service during which he has been awarded one warning, two censures and one major penalty of reduction in pay by two stages. The major penalty is for extortion of money from truck drivers by checking them unauthorisedly at Outer Ring Road near Mukandpur Turn. It is very clear that the appellant has propensity to indulge in criminal acts.

The conduct of the appellant as proved in this DE shows his utter contempt for the discipline of the Department and law of the country. Moreover, his track record shows that he has tendency to indulge in criminal activities and has been penalised for it. Not learning anything from earlier punishments he has again indulged in this act of cheating the Department by showing false consumption of diesel by making false entries in the Log Book of the vehicle and DD. I concur with the observations of the Disciplinary Authority that to stem such indisciplined conduct among the staff deterrent action is an imperative. I see no ground in the appeal to interfere in the orders passed by the Disciplinary Authority and hence the appeal is rejected."

4. Learned counsel for the applicant contends that the appellate authority has taken into consideration the extraneous factors pertaining to the past conduct of the applicant, which were neither the mentioned charge nor after taking into consideration any notice of show-cause.

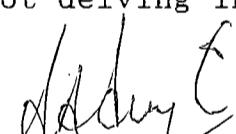
5. The respondents' learned counsel has fairly stated the facts by contending that appellate authority has taken into count all the facts that are being mentioned pertaining to the past conduct of the applicant, but it has nothing to do with the dismissal of the appeal.



6. We have ~~also~~ reproduced above the operative portion of the order passed by the appellate authority. It clearly shows that the appellate authority has taken into consideration the past bad record and conduct of the applicant. It reveals that it had crept into the mind of the appellate authority while disposing the appeal. Because the appellate authority while recording the past conduct further recorded that the applicant has not learnt anything from earlier punishments he has again indulged in this act of cheating the Department. Therefore, it is obvious that extraneous factors have crept into the order passed by the appellate authority.

7. Resultantly, we allow the present Original Application in part and quash the order passed by the appellate authority. We direct the appellate authority to pass a fresh order in accordance with law.

8. Keeping in view the above said facts, we are not delving into the other facts in issue.


(S.A. SINGH)
ADMINISTRATIVE MEMBER


(V.S. AGGARWAL)
CHAIRMAN

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