CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2044/89

New Delhi this the 27th day of April, 1994

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. P. T. THIRUVENGADAM, MEMBER (A)

Balwan Singh S/O Chhotey Lal,
R/O Vill. Vidhyalana,
P. S. Kharkoda,
Distt. Sonipat (Haryana). ... Applicant

By Advocate Shri O. P. Kshatriya

Versus

1. Union of India through
Lt. Governor, Delhi.

2. Dy. Commissioner of Police
(Traffic), Delhi Admn.,
Delhi.

3. Addl. Commissioner of Police
(S&T), Delhi Admn.,
Delhi. ... Respondents

By Advocate Shri B. S. Oberoi for Shri D. K. Sharma

O R D E R (ORAL)

Shri Justice V. S. Malimath -

The petitioner, Shri Balwan Singh, was a Police Constable at the relevant point of time. A disciplinary inquiry was held against him in respect of certain charges. It is alleged that at the Inter State Bus Terminus (ISBT), Delhi, a lady advocate from the High Court of Punjab & Haryana by name, Mrs. Brar, was hiring a taxi to go to the place of her destination. The petitioner who was nearby obstructed her in proceeding in the taxi hired by her and insisted on her taking a scooter instead. This resulted in some

altercation. Later, the petitioner came in uniform and created a scene allegint that his wrist watch and gold chain which were with him at the time of earlier incident had been taken away by somebody. When he complained in that way, it was noticed on search on his person that ~~both~~ the articles were in his person. The allegation is that all through the petitioner was in a drunken state. The inquiry officer conducted a detailed inquiry and recorded evidence produced on behalf of the department. No evidence was recorded on behalf of the petitioner. The inquiry officer recorded his finding to the effect that the charge levelled against the petitioner had been duly proved. The disciplinary authority accepted those findings and passed the impugned order dismissing the petitioner from service. It is in this background that the petitioner has approached this Tribunal for quashing the said order.

2. The findings recorded by the inquiry officer and accepted by the disciplinary authority are essentially ~~the~~ findings on appreciation of oral evidence adduced in the case. We cannot reappreciate the evidence to substitute our own findings to those arrived at by the inquiry officer as if the Tribunal is an appellate court. This is not a case of no evidence as there is evidence of four witnesses. Learned counsel for the petitioner, however, maintained that there is a serious infirmity in the inquiry inasmuch as the lady advocate, Mrs. Brar, has not been examined. She was one of the witnesses cited by the department as is clear from the

summary of allegations which indicates that she is one of the witnesses who was expected to be examined by the department. But the department did not examine her. It is also contended that another material witness who should have been examined is the taxi driver. Failure on the part of the department to examine these two witnesses, it is maintained, is a serious infirmity justifying interference. It is necessary to bear in mind that the burden of establishing the charge levelled against the petitioner was on the department. It is their responsibility to produce such evidence as is adequate to substantiate the charge levelled against the petitioner. It is not the law that all the witnesses to an occurance must be examined and failure to examine any one of them would vitiate the inquiry proceedings. It is a well settled law that the burden of establishing the charges being on the department it is for them to produce such evidence as is sufficient to unfold the story which is sufficient to establish the charges. Hence, mere failure on the part of the administration to examine either the lady advocate or the taxi driver cannot have the effect of vitiating the inquiry. If the evidence produced is inadequate to establish the charge the petitioner is undoubtedly entitled to say that this is a case of no evidence. But unfortunately for the petitioner, that is not the position. There is evidence of four witnesses and the evidence of P.W. 2 in particular is that of a person who was present in the taxi stand and had witnessed the incident and spoken from his personal knowledge. His evidence, if believed, is sufficient to establish the charge. There being nothing to show that his story is unbelievable, the inquiry

officer cannot be faulted for believing and accepting his evidence. As the findings are supported by evidence produced by the department, the findings recorded cannot be interfered with.

3. It is contended that the punishment imposed is harsh. It was urged that the incident is a trivial one and the punishment imposed is excessive and manifestly unreasonable. It is difficult to accept this contention. We should bear in mind that the petitioner was a police constable and was supposed to be on duty 24 hours. That being the position he has to exhibit an exemplary conduct all through. The petitioner was in a public place at the relevant point of time. He interfered with the hiring of a taxi by the lady advocate and tried to force her to take a scooter instead. It was the right and privilege of the lady to choose the transport of her convenience. The petitioner has no right to compel her to hire a scooter. It is obvious that the petitioner acted in a high handed manner. The situation becomes worse because he did so in respect of a lady advocate. The evidence also shows that he was in a drunken state.

4. All these circumstances do justify an inference that the petitioner is unworthy of being continued as a member of a disciplined police force. Hence, we do not find any good grounds to say that the punishment imposed is so excessive as to justify the inference of arbitrariness.

5. For the reasons stated above, this application fails and is dismissed. No costs.

(P. T. Thiruvengadam)
Member (A)

(V. S. Malimath)
Chairman

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