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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O. A. NO. 2525/89

New Delhi this the 6th day of July, 1994

CORAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)  
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Shri Mangat Ram Sharma S/O Shri  
Faquir Chand Sharma,  
R/O 2-C/16, New Rohtak Road,  
New Delhi - 110005.

... Applicant

By Advocate Shri Mahesh Srivastava

Versus

1. Union of India through  
Secretary, Ministry of  
Agriculture, Govt. of India,  
New Delhi.

2. Addl. Secretary to the Govt.  
of India, Ministry of  
Agriculture, Department of  
Agriculture and Cooperation,  
Krishi Bhawan, New Delhi.

3. General Manager,  
Delhi Milk Scheme,  
Patel Nagar,  
New Delhi.

... Respondents

By Advocate Shri V. S. R. Krishna

O R D E R (ORAL)

Shri J. P. Sharma, Member (J) :-

The applicant was a Heavy Vehicle Driver (HVD). On 23.12.1986, he was deployed on Route No. 32 (M), van No. 128 for distribution of milk consignment. When the contents of the said van were checked by the security staff before it left the security gate, it was found that 12 half litre milk filled of Toned milk poly packs in different crates were found to be in excess of the scheduled quantities as reflected on

the route schedule. One poly pack of one litre capacity was also found short as per the scheduled quantity in the van. A departmental inquiry under Rule 14 of the C.C.S. (C.C.A.) Rules, 1965 was held charging the applicant and the other staff of the aforesaid van No.128 for violating Rule 3 of the C.C.S. (Conduct) Rules, 1964. The inquiry officer, Shri R. S. Luthra, conducted an inquiry and gave his report dated 23.4.1988 holding the applicant guilty of the charge and violating Rule 3 of the Conduct Rules, 1964. On the basis of the findings of the inquiry officer, the disciplinary authority by its order dated 14.6.1988 imposed the penalty of reduction of his pay by two stages in the time scale of his pay for a period of two years with the direction that he will not earn increments of pay during the period of reduction and that on expiry of this period the reduction will not have the effect of postponing the future increments of pay. The applicant preferred an appeal which was dismissed by order dated 7.11.1989. The applicant has filed this application in December, 1989 praying for grant of relief that the impugned order of punishment aforesaid be quashed and the applicant be given the benefit of the arrears of pay as if no punishment was inflicted on him. The respondents have contested this application and opposed the grant of relief. The facts already referred to above have been stated by the respondents in their reply and it is stated that the applicant was proceeded against by an inquiry vide memo dated 25.4.1987 on the charge of attempting

to pilfer 12 half ltrs. polypack milk in connivance with other van staff for illegal and personal pecuniary gain and for shortage of one polypack of one ltr. capacity in connivance with other van staff. We have heard the learned counsel for the applicant. Shri R. K. Kathuri, Senior Clerk, is present in the court and states that Shri V. S. R. Krishna is the counsel in this case and that he is busy in another court. In fact, the matter was also taken up yesterday but none appeared for the respondents. There is no power on record of Shri Krishna. Since this is an old matter we propose to dispose of this matter on the basis of the pleadings on record after hearing the learned counsel for the applicant.

2. The first contention of the learned counsel for the applicant is that the charge framed in this case is totally regarding pilferage of certain polypacks of half litre of milk and that has not been established. The contention of the learned counsel is that there may be some sort of inadvertance in exercise of performance of duties by the applicant, but that would not be taken to mean that the applicant has acted dishonestly or that he wanted to pilfer the excess quantity of milk. These facts by themselves do not exonerate the applicant because the inference has to be drawn by certain act which amounts to misconduct under G.C.S. (Conduct) Rules. The learned counsel, however, concedes that there has been some negligence in performance of duties by the applicant

inasmuch as he was not vigilant at the time when the milk was being loaded by the van staff. The learned counsel has relied on the statement of the electrician Shri Dhyan Singh who had stated that the light of the vehicle was out of order and at the instance of the applicant he went to repair the same which took about half an hour and that at one stage the applicant was also helping him so that the defect in the supply of electricity may be removed. The inquiry officer has not believed this version and categorised it as an after-thought. The Tribunal cannot re-appreciate the evidence. In any case, this is not a case of no evidence nor the finding of the inquiry officer can be said to be perverse or that which could not be arrived at on the consideration of the material facts by a reasonable person. Under order No. 8-1/86-PID.Cell dated 3.1.1986 the duty of H.V.D. is to get the van loaded in his presence. Thus, the applicant was solely responsible as incharge of the vehicle No.128 to ensure that specified quantity of milk of the scheduled route is loaded in the vehicle. Either he had over confidence in the van staff who deceived him or he was not vigilant of his own duties or he had fallen in line with the van staff for any consideration whatsoever. The decision in a departmental inquiry can also be based on inferences drawn from established facts. The fact established in this case is, which is also not denied, that 12 half litre polypacks of milk were found in excess in the van No. 128 of which the

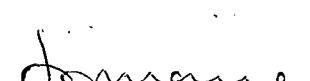
applicant was incharge. The inference drawn by the inquiry officer, therefore, cannot be said to be perverse or in any way faulty or not deducable from the facts coming before the inquiry officer in the case. Thus, we do not find any basis to accept the argument of the learned counsel for the applicant that the charges in this case have been wrongly framed or that the charge of misconduct under C.G.S. (Conduct) Rules is not established.

3. Learned counsel for the applicant has laid more stress on the statement of the electrician, Shri Dhyan Singh. We have also gone through that statement and the electrician has also stated that he had informed the applicant to watch his own work and he will do the repairs, but it was the applicant himself who did not relieved himself from the vicinity of the place where the electrician was carrying out the repairs in the headlight. The applicant had chosen that place. He has to suffer and cannot blame any other person.

4. The punishment imposed in this case is of reduction of pay by two stages for two years. Firstly, the Tribunal cannot go into the quantum of punishment and secondly the punishment does not appear to be harsh, excessive or not commensurate with the misconduct established against the applicant.

5. In view of these facts and circumstances, we find no merit in this case and the same is dismissed. No costs.

  
( S. R. Adige )  
Member (A)

  
( J. P. Sharma )  
Member (J)

/as/