

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 1526/88
T.A. No.

199

DATE OF DECISION 21.10.1993

Shri Ved Singh

Petitioner

None

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Shri P.P. Khurana

Advocate for the Respondent(s)

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The Hon'ble Mr. J.P. Sharma, Member (Judl.)

The Hon'ble Mr. B.K. Singh, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(ORAL) JUDGEMENT

The applicant was employed as Mate in the Delhi Milk Scheme and was imposed the penalty of compulsory retirement by the order dated 2.7.1986 in the departmental proceedings under C.C.S. (CCA) Rules, 1965 by the Deputy General Manager, Delhi Milk Scheme. He preferred an appeal to the Chairman, D.M.S., who dismissed the same by the order dated 22.2.1987. He filed a review petition also on 15.5.1987, but till the filing of this application on 16.8.1988, the same was not disposed of. The applicant prayed for grant of the reliefs that the impugned order of

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punishment dated 2.7.1986 and appellate order dated 22.2.1987, be quashed and the applicant be treated on duty w.e.f. 25.5.1984, when he was placed under suspension till the date of revocation for all intents and purposes and his period of suspension be treated as wholly unjustified.

2. A notice was issued to the respondents who contested the application and filed the reply stating that the duty ^{who} of the applicant was employed as Mate, was to load the milk consignment according to the quantity reflected on the route schedule and not to stock any extra quantity between the crates. He was deputed on route No.21(M), vehicle No.136. On 5.5.1984, 24 half-litre milk filled bottles were found in excess of the quantity reflected on the route schedule. He was served with a memo. of charge-sheet dated 25.10.1984 and was also suspended pending an enquiry. He was served with a memo. of charge-sheet, as said above, with the allegation that he ^{has} ~~admitted~~ ^{to have} pilfered half-litre filled 24 bottles of milk which is grossly unbecoming of a Government servant and ^{is} ~~is~~ misconduct as per Rule 3(1) (iii) of the C.C.S.(Conduct) Rules, 1964. Shri M.M. Mathur was appointed as the Enquiry Officer to conduct the enquiry, who submitted the report on 17.2.1986 and held that the charge against the applicant had been proved. On the basis of the findings of the

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Enquiry Officer, the disciplinary authority passed the impugned order of punishment of compulsory retirement from service which was held by the appellate authority.

3. None is present on behalf of the applicant. We have gone through the records of the case and perused the pleadings and the Annexures to the application.

4. The first ground taken by the applicant is that he was new to that route and has been falsely roped into the matter. This fact, according to him, has not been taken into account by the Enquiry Officer. However, the fact is that on security check, 24 bottles of half-litre filled milk were found in excess. That has nothing to do with the change of the route of the applicant from route No.48 to Route No.21(M).

5. The other ground taken by the applicant is that there is no evidence to show that he obtained the excess milk bottles from the issue centre and loaded them into the vehicle. In the Van staff, there is a heavy vehicle driver and two Mates. The work of the Mates is to load the crates containing the requisite number of milk bottles as per the quantity reflected on the route schedule. It was the duty of the applicant to check the loaded consignment before stocking the milk crates in the Van. Thus, this ground also has no basis. The third ground taken

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by him is that the heavy vehicle driver is solely responsible for the excess stock of milk found loaded in the Van. The Enquiry Officer had considered this aspect and held the applicant responsible on the basis of the evidence for the excess loading of milk beyond the quantity reflected in the route schedule.

6. The applicant has also taken the ground that the findings are based on the office order dated 2.11.1979 which is to the effect that the Mates are responsible for the theft of milk, if any. The averment in the application is that the same was not produced at the time of evidence at the enquiry stage. However, that order is an office order which was duly published and duly known to the applicant also.

7. The other ground taken by the applicant is that he was not given any opportunity to inspect the documents which were listed, but there is nothing on record to show that he has moved the Enquiry Officer or, at any time, complained that the required number of documents be shown to him. Thus, this is an after-thought.

8. Another averment in the grounds is that the applicant, nor his Defence Assistant, was given an opportunity to cross-examine the witnesses examined by the prosecution. There is nothing on record to show

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that the witnesses were not examined in the presence of the applicant, or his Defence Assistant. If any cross-examination of the witnesses was required, or if the cross-examination was disallowed, the details thereof should have been mentioned in the grounds to test the authenticity of the averment. Thus, it cannot be accepted that the applicant was not afforded adequate opportunities to cross-examine the witnesses.

9. The applicant also averred that he was also examined and the Enquiry Officer has every right to put any question to the delinquent at the close of the enquiry.

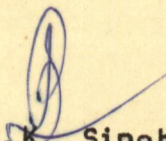
10. It is also averred that the heavy vehicle driver was awarded lesser penalty than the applicant. This cannot be a ground to set aside the punishment order. The quantum of punishment has to be decided by the disciplinary authority on the basis of its judicial discretion looking at the magnitude of the misconduct committed by the delinquent. In this case, it was a clear case of theft.

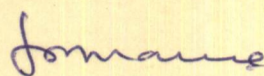
11. We have also gone through the order of the appellate authority which is well-discussed and reasoned one.

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12. In view of the above facts and circumstances,
we find no merit in this application and it is dismissed,
leaving the parties to bear their own costs.


(B.K. Singh)
Member (A)


(J.P. Sharma) 21.10.97
Member (J)