CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN.NO. O.A. 1308/87. DATE OF DECISION: 8.1.1993

Kulbir Singh. ... Petitioner.

Versus

Union of India & Ors. ... Respondents.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the Petitioner. ... Shri A.S. Grewal, Counsel.

For the Respondents. ... Shri Harish Garg, proxy for Shri M.C. Garg, Counsel.

JUDGEMENT(ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner was a police constable serving under the Delhi Police. In pursuance of a disciplinary inquiry held against him, the petitioner was dismissed from service vide an order dated 16.12.1985, which order was affirmed by the Appellate Authority on 15.4.1986 and further by the Revisional Authority on 22.9.1986. It is in this background that the petitioner approached this Tribunal for relief.

2. The first contention of Shri Grewal, learned counsel for the petitioner, is that though only three witnesses were mentioned in the list given along with statement of allegations, department examined two more witnesses. The contention of Shri Grewal is that the examination of these two witnesses is not legal and proper on the ground that it is opposed to Rule 16 (viii) of the Delhi Police Punishment & Appeal Rules, 1980. The said Rule reads:

"After the defence evidence has been recorded and after the accused officer has submitted his final statement the Enquiry Officer may examine any other witness to be called "court witness" whose testimony he considers necessary for clarifying certain facts not already covered by the evidence brought on record in the presence of the accused officer who shall be permitted to cross examine

All such witnesses and then to make supplementary final defence statement, if any, in case he so desires".

We fail to see how this provision is attracted. This is only an enabling provision which empowers the Inquiry Officer to examine certain court witnesses after the defence evidence has been recorded and after the accused officer has submitted his final statement if the Inquiry Officer finds that it is necessary to do so for clarifying certain facts. It is not after the conclusion of the evidence by both the parties that the department decided to examine the so called court witnesses. We do not, therefore, find that examination of the two additional witnesses is bad as it is not opposed to Rule 16(viii) of the Delhi Police Punishment and Appeal Rules, 1980. We are satisfied that no prejudice was caused to the petitioner. It was also open to the petitioner to adduce any further evidence in rebuttal thereof. Hence, we do not find any infirmity with the disciplinary proceedings.

2. The second contention of the learned counsel for the petitioner is that similarly situate persons like Balram Singh and others who were arrested and were also let off by the criminal court did not suffer infliction of such serious punishment as dismissal from service. It is, therefore, submitted that he has been discriminated against in this behalf. Firstly, it is necessary to point out that no joint inquiry was held by the authority in respect of the petitioner and Shri Balram Singh and others. Admittedly, Balram Singh and others were subjected to other independent disciplinary proceedings. Merely because Balram Singh and others have been inflicted other type of punishment cannot be accepted as a ground to say that the punishment imposed in the present case can be regarded as suffering from any infirmity. The question is as to whether the punishment imposed in this case is justified upon the circumstances of the case. So far as the facts of this case are concerned, it is

stated that the punishment imposed is so unreasonable as to shock the judicial conscience justifying interference. So far as the personnel of Delhi Police are concerned, they are governed by the Delhi Police Punishment and Appeal Rules, 1980. Rule 8 deals with the principles for infliction of penalties. The Clause(a) of Rule 8 says that the punishment of dismissal or removal from service shall be awarded for the act of grave misconduct rendering him unfit for police service. Rule 11 deals with the punishment on judicial conviction. It says that when a report is received from an official source, e.g. a court or the prosecution agency, that a subordinate rank has been convicted in a criminal court or an offence, involving moral turpitude or on charge of disorderly conduct in a state of drunkenness or in any criminal case, the disciplinary authority shall consider the nature and gravity of the offence and if in its opinion the offence is such as would render further retention of the convicted Police Officer in service, prima facie undesirable, it may forthwith make an order dismissing or removing him from service without calling upon him to show cause against the proposed action provided that no such order shall be passed till such time the result of the first appeal that may have been filed by such police officer is known.

3. It is necessary to note that this provision empowers the disciplinary authority to inflict the punishment of dismissal or removal from service if the police officer concerned has been convicted by a criminal court on charge of disorderly conduct in a state of drunkenness or in any criminal case and if in its opinion the offence is such as would render further retention of the convicted police officer in service. In such an event no further inquiry is called for. It provides that an order dismissing or removing from service may be passed without calling upon the delinquent to show cause against the proposed action. This is also a case in which the petitioner was convicted by a criminal court

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on charge of disorderly behaviour in a state of drunkenness in public place. The competent authority having regard to the conduct of the petitioner dismissed the petitioner from service after an elaborate inquiry was held and the petitioner was found guilty of disorderly behaviour in a state of drunkenness in a public place and he does not deserve to continue in service. In the circumstances, it is not possible to take the view that the infliction of the punishment on the petitioner is unreasonable justifying our interference.

4. For the reasons stated above, this petition fails and is accordingly dismissed. No costs.

(S.R. ADIGE)
MEMBER(A)

(V.S. MALIMATH)
CHAIRMAN

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