

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No.54/87

Date of decision: 30.07.92.

Inderjit Singh

...Applicant

Versus

Union of India through

...Respondents

Chief Secretary, Delhi Administration

Coram:-

The Hon'ble Mr. Justice V.S. Malimath, Chairman

The Hon'ble Mr. I.K. Rasgotra, Administrative Member

For the applicant Shri Ashok Aggarwal, Counsel.

For the respondents Smt. Avnish Ahlawat, Counsel.

Judgement (Oral)

(Mr. Justice V.S. Malimath, Chairman)

The applicant was holding the post of Sub Inspector. A disciplinary inquiry was held against him, alleging that he failed to go for the Commando training for which he was selected and given preliminary training, on the false plea that he was not well. The Inquiry Officer held the charge proved. The disciplinary authority after accepting the report and considering the cause shown by the applicant in reply to his notice, agreed with the findings of the Inquiry Officer and passed an order on 20.08.1985, forfeiting permanently two years' approved service of the applicant. On appeal the said decision was affirmed on 6.1.1986. Hence this Petition.

2. The learned counsel for the applicant, firstly, pointed out that the inquiry is vitiated on the ground that the Inquiry Officer has cross examined the witnesses like a prosecutor, justifying the inference that he was a biased officer. In support of this contention, our attention was invited to the question asked to Dr. Malhotra, the witness examined on behalf of the applicant. The answers formulated by the Inquiry Officer reads as follows:-

" i) S.I. did not tell me that he was re-examined by Dr. Bharat Singh the then Civil Surgeon, Civil Hospital, Rajpur Road, Delhi on 3.1.85.

ii) The Civil Surgeon authorised by Government of India is senior to him in designation.

iii) I cannot say whether the medical opinion in diagnosing a case is more authentic in a case of Civil Surgeon junior to him."

3. Learned counsel for the respondents invited our attention to Rule 16(v) of Delhi Police (Punishment and Appeal) Rules, 1980, which in express term provides that the Inquiring Officer can frame questions to clear ambiguities or to test the veracity of the witnesses. In our opinion the questions formulated fall within the prescribed area.

✓ The answers given by the witness bear only on the

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question of information about the status of the Civil Surgeon vis-a-vis himself, about the Senior Medical Officer's opinion being more authentic than that of the Junior Medical Officer and about the applicant not having told the witness that he was re-examined by Dr. Bharat Singh, the then Civil Surgeon, Rajpur Road, Delhi on 3.1.1985. On relevant matters information has been received from the witness and no attempt has been made to ask question like a prosecutor for the purpose of demolishing the testimony of the witness. It is not at all possible for us to draw the inference that the Inquiry Officer acted in a biased manner. It, is, therefore, not possible to accede to the contention of the learned counsel for the applicant in this behalf.

4. It was then contended that there is no finding to the effect that the medical certificate obtained by the applicant from Dr. Malhotra is vague and bogus certificate. It is true that there is no specific finding in that behalf but there is a clear and categorical finding to the effect that the applicant, though he was quite well has taken a false plea of his not being well to claim right to absent himself from the training on the strength of the medical certificate issued to him. This finding is sufficient to sustain the charge levelled against the applicant and it was not necessary further to record a

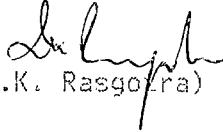
✓ ..4..

specific finding about the vague or bogus nature of medical certificate. It was next contended that there is no legal evidence in support of the charge levelled against the applicant. We find it difficult to accede to this contention. Oral evidence has been led to show that the applicant took preparatory training when he was certified by the authorised Medical Officer as medically fit to take the regular training. There is also evidence to show that immediately after the applicant produced the certificate from Dr. Malhotra, doubting the genuineness of the same, the applicant was asked to get himself examined by the Civil Surgeon. On such examination on 3.1.1985 he gave the opinion to the effect that the applicant was quite fit to take the training. There is, therefore, clear and satisfactory evidence to show that the applicant tried to absent himself from the training by taking a false plea that he was not well. It is surprising to note that the medical certificate given by Dr. Malhotra only speaks of rest being advised for 7 days. It does not speak of any treatment being prescribed nor does it speak of any ailment from which the applicant was suffering. A Superior Medical Officer examined him shortly thereafter and gave certificate about the applicant's fitness to take training. The disciplinary authority has after proper assessment of the evidence on record, recorded a finding to the effect that the guilt of the applicant has been adequately established. It is,

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therefore, possible not to take the view that the finding is not based on legal evidence. We, therefore, do not see any good ground to interfere in this case. Hence this Petition fails and is dismissed. No costs.


(I.K. Rasgotra)

Member (A)


(V.S. Malimath)

Chairman

July 30, 1992

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