

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

(6)

D.A. No. 652/1987.

Date of decision: November 25, 1992.

Shri Anand Prakash ... Petitioner.

Vs.

Union of India & Others ... Respondents.

CORAM:

HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.

HON'BLE MR. I.K. RASGOTRA, MEMBER (A).

For the petitioner ... Shri A.S. Grewal,
counsel.

For the respondents ... Ms. Gita Luthra and
Shri D.N. Gobardhan,
counsel.

JUDGMENT (ORAL)

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

In pursuance of a disciplinary inquiry held against the petitioner on the charge of demanding illegal gratification of Rs. 200/- for not challaning the driver of the vehicle for violation of the traffic rule, he was found guilty and dismissed from service by the Disciplinary Authority. On appeal while affirming the decision of the Disciplinary Authority on merits, the punishment was reduced to one of forfeiture of the entire past service rendered by the petitioner. It is the said order that is challenged by the petitioner in this petition.

2. Shri A.S. Grewal, learned counsel for the petitioner submitted that this is a case of no evidence.

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The counsel for the respondents submitted that this is not a case of no evidence as is clear from the disciplinary proceedings which show that there is direct evidence of P.W. 3, Shri Harish Kumar. But then it was submitted by the learned counsel for the petitioner that the said witness does not speak about what happened on the date of the alleged incident. The alleged incident took place on 12.9.1984 as is clear from the charged memo. But P.W. 3 says that the said incident took place on 9.9.1984. He reiterated this in the cross examination. No clarification has been sought by asking any question in the re-examination either. Shri A.S. Grewal, learned counsel for the petitioner is, therefore, right in pointing out that P.W. 3 speaks of an incident that took place on 9.9.1984. As the charge memo clearly shows that the incident took place on 12.9.1984 and P.W. 3, the solitary witness speaks as to what happened on 9.9.1984, it was submitted that there is no evidence about the incident. The counsel for the respondents rightly pointed out that the other evidence produced as also the complaint of the witness himself clearly indicates that the incident took place on 12.9.1984. As the witness was being examined after a lapse of a long time, much cannot be made of this discrepancy. This point was canvassed before the Inquiry Officer and rejected. In the circumstances, we are inclined to take the view that the evidence of PW 3 really bears on the incident

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that took place on 12.9.1984. Hence it is not possible to take the view that this is a case of no evidence. It is submitted that the witness has also spoken about demanding Rs.200/- for entry failing which the driver would be challaned. It was submitted that the language employed by the witness does not indicate that he demanded any illegal gratification or bribe from the driver. The original statement of the witness (PW-3) was made available to us by the respondents during the course of the arguments which we have perused. In the statement it is stated that Rs.200/- was demanded for entry failing which the driver would be challaned. The meaning of the word 'entry', it is difficult to gather. No attempt was made to get the clarification from this witness when he was in the witness box. Shri A.S.Grewal, learned counsel for the petitioner submitted that demand of Rs.200/- was by way of compounding fee. If that is so, the petitioner should have taken the plea that he did demand Rs.200/- not by way of bribe but by way of compounding fee. The petitioner has not urged this point before the inquiring authority. He has submitted a detailed written representation in support of his case after conclusion of the evidence in this behalf. We have perused the same. Apart from taking the stand that evidence of PW-3 is not reliable, the petitioner has nowhere taken the stand that he demanded

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Rs. 200/- as fee for compounding the offence and not as bribe. No such case having been made out by the petitioner at any time, it is not possible to accept the argument of Shri A.S. Grewal which is not supported by the materials on record. Hence it is not possible to accept this argument either. As the findings are based on proper consideration of evidence on record it would not be our province to reappraise the evidence and to interfere with the findings of fact. So far as the punishment awarded to the petitioner is concerned, it is not possible to take the view that it is manifestly unreasonable or perverse justifying interference.

3. So far as the treatment of period of suspension as non duty is concerned, that was well within the discretion of the Disciplinary Authority which power has been exercised after taking into consideration the relevant facts. Hence there is no good ground for interference. For the reasons stated above, this petition fails and is dismissed. No costs.

I. K. Rasgotra
(I.K. RASGOTRA)
MEMBER (A)

V. S. Malimath
(V.S. MALIMATH)
CHAIRMAN

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