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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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OA No. 170 of 1990

Dated New Delhi, this 24th day of November, 1994

Hon'ble Mr Justice S. K. Dhaon, Vice Chairman(J)

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

Shri Krishan Kumar
R/o Village & P.O. Jaunti Kalan
District: Sonapat
HARYANA.

...Applicant

By Advocate: Shri Shankar Raju

Versus

1. Delhi Administration, through
Chief Secretary
5, Alipur Road
Rajniwas Marg
DELHI-110054.

2. The Additinal Commissioner of Police
(Range), New Delhi
Police Headquarters, M.S.O. Building
T. P. Estate
NEW DELHI.

3. The Deputy Commissioner of Police
(North-East District)
Shahdra
DELHI

...Respondents

By Advocate: Shri O.N. Trishal

**ORDER
(Oral)**

Mr Justice S. K. Dhaon, VC(J)

The applicant, a Constable in Delhi Police, was subjected to disciplinary proceedings under the Delhi Police Act and the rules framed thereunder. A summary of allegations was given to him and an Inquiry Officer was appointed. Thereafter the Inquiry Officer

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framed charges against the applicant that he (applicant) on 2.4.87 had consumed liquor and misbehaved with a passenger, and submitted his report to the disciplinary authority. The disciplinary authority called upon the applicant ^{to show cause} ~~as to why the report should not be accepted~~ and punishment awarded in view of the inquiry report. The disciplinary authority rejected the explanation of the applicant and passed an order on 28.2.89 dismissing him from service. According to the disciplinary authority, the misconduct attributed to him is of grave character. On 10.5.89, the Additional Commissioner of Police, New Delhi Range accepted the appeal of the applicant in part. He set aside the order of dismissal and substituted the same by forfeiting five years' approved service of the applicant permanently and directed that the applicant be reinstated in service forthwith. However, he recorded that the period during which he remained suspended from service i.e., 28.2.89 to 8.5.89, should be treated as not spent on duty. The appellate order is being impugned in the present application.

2. The main allegation against the applicant is that on 24.8.87, while (under suspension) posted in East District, he asked one Shri Rajender Pal Singh to give his personal serach at I.S.B.T., Delhi. Upon the refusal of Shri Singh to do so, he misbehaved with him (Shri Singh) under influence of liquor. He was brought to In-Charge Police Station I.S.B.T. by Constable Maman Singh who was on duty at the bus terminus. The applicant was subjected to a

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my medical examination and it ^{was} found that he had consumed liquor on that day.

3. We ^{have} before us a true copy of the complaint written by Shri R. P. Singh on 24.8.87. The contents of the complaint are substantially the same as the allegation contained in the summary of allegations. However, in the departmental proceedings before the I.O., Shri R. P. Singh was not produced. Constable Maman Singh reiterated the allegations contained in the summary of allegations. He testified that he had seen the applicant misbehaving and manhandling Shri R. P. Singh. The other important witness examined in the enquiry proceedings was the Doctor who reported that ~~who reported that~~ though the applicant was drunk and consumed alcohol, he was not under its influence.

4. The appellate authority, after taking into account the facts and circumstances of the case, came to the ^{since} conclusion that Shri R. P. Singh (complainant) was not examined during the course of departmental enquiry, the punishment of dismissal from service was not called for, and, therefore, he modified the order of disciplinary authority as indicated above.

5. We may immediately note ^{that} in the order of the disciplinary authority, it is clearly recited that the applicant appeared before him in O.R. and confessed the misconduct attributed to him. In the memorandum of appeal of the applicant, we do not find even a whisper of the said confession. Even in the OA before


us, not attempt whatsoever, to explain the admission, has been made by the applicant. It is also not suggested in the OA that ^{the} disciplinary authority falsely stated in its order that the applicant had confessed his guilt. The applicant's counsel has vehemently urged that there is a discrepancy between summary of allegations and the charge framed against the applicant in so far as the time of occurrence is concerned. The time of occurrence given in the summary of allegations is 7.45 p.m. whereas in the ^{framed} charge the time mentioned is 8.15 p.m. It is true that such a discrepancy does exist, but keeping in view the rule of evidence applicable to disciplinary proceedings, i.e. preponderance of probabilities, we do not think that something will turn upon the said discrepancy. On the whole, the testimony of Constable Maman Singh has been relied upon by the Inquiry Officer as well as the disciplinary authority and also the appellate authority. In disciplinary proceedings what has to be seen by the Tribunal is as to whether the finding is based on some evidence and not voluminous evidence.


6. The next contention of the counsel for the applicant is that the applicant ~~is that the applicant~~ was admittedly under suspension on the day of occurrence and therefore he cannot be subjected to disciplinary proceedings. According to him, Shri R. P. Singh could prosecute the applicant in a court of law.

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7. Section 21 of the Delhi Police Act enumerates from (a) to (g) the punishment which can be awarded to a police officer of a subordinate rank. Suspension is not a punishment. Therefore, the Act does not contemplate an order of suspension by way of punishment. However, sub section 4 of Section 21 of the ~~Delhi Police~~ Act provides, inter-alia, that any police officer of a subordinate rank may be suspended from service if he is reasonably suspected to be guilty of misconduct, pending an investigation or enquiry into such misconduct. It is, therefore, apparent that the applicant was suspected to be guilty of misconduct, pending some investigation or enquiry into his misconduct. It is a settled law that a Government servant, if suspended on a charge of misconduct, pending disciplinary proceedings, continues to be a Government servant and the relationship of master and servant is not severed on account of an order of suspension. Thus, inspite of the order of suspension, the applicant continued to be a police officer of subordinate rank so as to attract Section 21 of the Delhi Police Act.

8. This application fails and is dismissed but without any order as to costs.


(B. K. Singh)
Member(A)


(S. K. Dhaon)
Vice Chairman(J)

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