

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BEN

NEW DELHI

O.A. No. 2400/90

New Delhi this 27th day of September, 1995.

Hon'ble Shri N.V. Krishnan, Acting Chairman.

Hon'ble Mrs. Lakshmi Swaminathan, Member(J).

Satbir Singh
S/o Shri Rajender Singh
R/o Village Gannora Shakha
P.O. Khas, District & P.S.
Bulandshahar, U.P.

... Applicant.

Through Advocate Shri A.S. Grewal

Versus

1. Commissioner of Police Delhi,
Delhi Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi
2. Additional Commissioner of Police
(Southern Range) New Delhi
Delhi Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi.
3. Deputy Commissioner of Police
West District, P.S. Rajouri Garden,
New Delhi

.... Respondents.

Through Advocate Shri Amresh Mathur

ORDER (ORAL)

(By Hon'ble Shri N.V. Krishnan, Acting Chairman)

The applicant, a former Police Constable is aggrieved by the penalty of dismissal from service following disciplinary proceedings against him. His appeal has also been dismissed. Hence, this O.A. has been filed.

2. The charge against the applicant after he was

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served with a summary of allegations reads as follows:

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"I, Inspector Raj Pal Singh SHO/Hari Nagar charge you Const. Satvir Singh No. 757/W that on 17.7.87 while posted in West Distt. Lines, you were found under influence of liquor by Sh. Parbhati Lal ACP/Tilak Nagar and were got medically examined through H.C. Mewa Singh 269/W vide DD No. 598 police station Tilak Nagar the same day and the allegation were confirmed by the Medical Opinion of C.M.O. Deen Dayal Hospital.

The above act constitute with full negligence gross misconduct and dereliction to discharge of your official duties which render you liable to be dealt with departmentally u/s 21 of Delhi Police Act. You are hereby directed to give your defence witnesses within four days."

3. The Enquiry Officer who enquired into the matter concluded that the charge was fully proved beyond any doubt.

4. The disciplinary authority agreed with its findings. He took note of the previous unsatisfactory record of the applicant particularly, about his habitual drunkenness and dismissed him from service. His appeal has also been dismissed. This order has been challenged on many grounds.

5. Respondents have filed the reply denying the allegations made and claim that the O.A. has no merits.

6. When the matter came up for final hearing today, the learned counsel for the applicant submitted that the only finding^{that} has been rendered by the Enquiry Officer is that the applicant had consumed liquor. This is established by the report of Dr. J.P. Singh (P.W.-4) of Din Dayal Hospital. He claims that even in the medical examination there is no further finding that he

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was under the influence of liquor as stated in the charge. He contends that the applicant was under suspension. He was therefore, not on duty. Even if he had consumed liquor this cannot be a misconduct. He relies on a decision of Punjab and Haryana High Court in Ratan Lal versus State of Haryana SLR(1983)(2) Vol.33 (page 159) for contending that mere consumption of liquor, even while on duty, would not amount a misconduct.

7. The learned counsel for the respondents who has with him the original records was asked whether the medical examination revealed that the applicant had not only consumed liquor but that he was also under the influence of the liquor. He, after seeing the medical reports, confirmed that there is no report to the effect that the applicant was also under ^{the} influence of liquor. The report stated that he had consumed liquor, he smelt of liquor but his responses were normal.

8. As to the question whether mere consumption of liquor would amount to a misconduct and as to whether there is such a provision in the conduct rules, the learned counsel states there is none. In so far as the judgement of the Punjab and Haryana High Court, he could not cite any authority to the contrary.

9. We have considered the matter. Though many grounds have been raised, we are of the view that this circumstance clinches the issue. Admittedly, there is nothing to show that the applicant was under the influence of liquor. That being in the

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case, the Enquiry Officer was not justified in concluding that the charge against the applicant, the main ingredient of which is that he was under the influence of liquor, stands fully proved. We are also of the view that mere consumption of liquor, without anything more, will not amount to a misconduct. In the circumstance, the decision of the disciplinary authority that the applicant is guilty of act of misconduct, is not warranted. Hence, the impugned Annexure-C order dated 26.09.1988 of the disciplinary authority and the Annexure-D order dated 05.04.1989 of the disciplinary authority are both to be quashed - we do so. The applicant is entitled to be reinstated. We, therefore, direct the respondents to reinstate the applicant within a period of two months from the date of receipt of this order. The applicant shall be entitled to consequential benefits in accordance with law.

10. O.A. is disposed of as above. No costs.

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Member(J)

N.V. Krishnan
27.8.85

(N.V. Krishnan)
Acting Chairman

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