

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.2564/90

Dated this the 21st of March, 1995.

Shri N.V. Krishnan, Hon. Vice Chairman(A)
Dr. A. Vedavalli, Hon. Member(J)

Surender Singh,
S/o Shri Ram Chander,
R/o North-East District Police Lines,
Police Station Welcome, Delhi. ...Applicant

By Advocate: None

versus

1. Commissioner of Police Delhi,
Delhi Police Headquarters,
M.S.O. Building,
I.P.Estate, New Delhi.
2. Additional Commissioner of Police,
New Delhi Range, New Delhi,
Delhi Police Headquarters, M.S.O. Building,
I.P.Estate, New Delhi.
3. Deputy Commissioner of Police,
North-East District,
Vishwas Nagar, Shalimar Park,
Delhi. ...Respondents

By Advocate: Shri Surat Singh.

O R D E R (Oral)

By Shri N.V. Krishnan.

The applicant is a Police Constable under the 3rd respondent, Deputy Commissioner of Police, North-East District. He is aggrieved by the penalty imposed upon him in the disciplinary proceedings by the order dated 29.5.90. The entire service was forfeited permanently and pay reduced to the minimum of the pay scale (Annexure-E). The appeal preferred by him has also been dismissed on 26.9.90 (Annexure-F).

2. The applicant was charged as follows:
- u

(2)

I, Inspr. Balkishan, SHO/Welcome, charge you, Ct.Surender Singh No.570/NE that while you were posted at P.S.Nand Nagri, on the night intervening between 20/21.3.89, SHO/Nand Nagri called the night patrolling staff for briefing. During the course of briefing you, was found (sic) in drunken state and unable to control yourself, while your duty was at Delhi U.P. Border. Then you were sent for medical examination at G.T.B. Hospital as per order of SHO/Nand Nagri, vide MLC No.C-13886 dt.21.3.89 the doctor gave positive result that "person has consumed alcohol but not intoxicated.

The above act on your part amounts to grave misconduct and dereliction to duty which renders you liable for departmental action u/s 21 of Delhi Police Act, 1978." (sic)

3. In the OA, it is contended that the Medical Officer did not find the applicant intoxicated. He only opined that the applicant has consumed liquor but was not under ^{its} ~~the~~ influence. The applicant did not misbehave with any one nor did he act in an abnormal manner. The ASI Nanak Singh, one of the witnesses, has clearly deposed that the applicant was not present in the briefings but was called from the barrack and that he did not see the applicant in the drunken state. It is stated that the applicant had taken a medicine 'Nrit Sanjeevini Sura', which contains a lot of alcohol and that accounts for the smell of alcohol.

4. The respondents have filed their reply contesting these claims.

5. When the matter came up for hearing, we noticed that even the Enquiry Officer's report was not filed. The respondents were directed to produce the records.

U

(3)

6. As none was present for the applicant today, we have heard the learned counsel for the respondents who has also produced the records.

7. We have seen the Medical Officer's report which was given in the early^u hours of 22.3.89. It states that there was a smell of alcohol through breath though the Medical Officer has given a report that the person has consumed alcohol but not intoxicated. He has made remarks in respect of speech and gait, in which, it has been stated that he was not normal. The speech is stated to be slurred and the gait is stated to be slightly^(This word is not clear) It is thus clear that the medical report does not state that the applicant was entirely normal, even though not intoxicated. This lends support to the finding that he was not under control.

8. We have perused the enquiry officer's report. It is seen that the ASI Vijender Singh was also examined. He was posted as Duty Officer at the time of the incident. He lined up the staff at 11.00 pm. for briefing and he has stated that the applicant was in a drunken state and was not in a position to stand. When this was brought to the notice of the SHO, he sent him for medical examination. This witness has not been cross examined by the applicant. Likewise, the SHO Raghubir Singh, PW4 has also testified that on the date of the incident, he found that the applicant was unable to control himself and was not able to perform night patrolling duty.

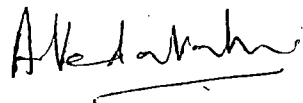
(17)

(4)

9. In the circumstances, we are of the view that this is not a case where there is no evidence whatsoever about the misconduct of the applicant. The enquiry officer's report reveals that there was sufficient evidence to show that the applicant had consumed liquor and was not in a position to control himself when called for duty.

10. On an earlier occasion the learned counsel had argued that consumption of liquor per se is not a misconduct. He also contended that the briefing was not an official duty. No doubt, there is no prohibition in consuming liquor but if a policeman is found to have consumed liquor while on active duty - as distinct from constructive duty under Section 24 of the Delhi Police Act - he will be liable for disciplinary action. The briefing at which he was found ^{to} to have consumed liquor is part of the official duty. That apart, he was found to have lost self control. Hence, the ^{findings in} disciplinary proceedings were fully justified.

11. In this view of the matter, we do not find any merit in the OA. It is dismissed.


(Dr. A. Vedavalli)
Member(J)

/kam/


(N.V. Krishnan)
Vice Chairman(A)