

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA NO.355/90

NEW DELHI, THIS 25TH DAY OF OCTOBER, 1994

Shri C.J. Roy, Member(J)
Shri S.R. Adige, Member(A)

Shri Baljit Singh
s/o late Shri Har Nath Singh
r/o Village Mangolpur Kund
P.O. Mangolpur Kalan, Delhi .. Applicant
(By Advocate Shri A.S. Grewal)

versus

1. Lt. Governor of Delhi, through
Chief Secretary, Delhi Administration
Delhi
2. Commissioner of Police, Delhi
Police Hqrs., MSC Building
IP Estate, New Delhi
3. Dy. Commissioner of Police, West District
Police Station Rajouri Garden
Near Vishal Cinema, New Delhi .. Respondents
(By Mrs. Avnish Ahlawat, Advocate)

ORDER(oral)
(Shri C.J. Roy, Hon'ble Member(J))

The applicant was a Constable (Driver) in Delhi Police.

On 2.6.85 one Smt. Savitri, w/o Shri Bir Singh filed a complaint against the applicant that "her son was being beaten by 4-5 boys, one of them was related to the applicant". On that, a departmental enquiry was conducted and the applicant was dismissed from service. Against the dismissal order, the applicant has filed this OA claiming reliefs for quashing of the dismissal order and also for reinstating him with back wages. The learned counsel for the applicant argued this case mainly basing on two points but the other points he did not press.

2. The two points raised by him are that the witnesses are "interested witnesses" and therefore their evidence should not have been believed by the disciplinary authority and that there is no clear cut finding by the disciplinary authority while dismissing the applicant from service as Rule 8(a) of

the Delhi Police (Punishment & Appeal) Rules, 1980 clearly says that "Punishment or dismissal or removal from service shall be awarded for the act of grave misconduct rendering him unfit for police service". These two grounds were assailed by the learned counsel for the respondents and she drew our attention to the dismissal order passed by the disciplinary authority and argued the case.

2. However, before going to that, we would like to mention that the witnesses here were examined. PWs 1 to 4 spoke on the general background of the incident but they were not cross-examined by the applicant, though he was given opportunity, stating that they are only common witnesses. PWs 5 and 6 deposed unshakenly and confirmed that the applicant used abusive filthy language against the SHO and they were not shaken even during the cross-examination by the applicant. They also quoted the actual words spoken by the applicant in their deposition. The ground taken by the learned counsel for the applicant that these are only "interested witnesses and their evidence should not have been believed. We can not stomach this kind of argument because they are not chance witnesses and their presence is not disowned by the applicant and they were cross examined by the ^{fine} applicant. They are all present at the ^{fine} incidence. They are cross examined. Their evidence is ^{un}shaken. So it is not in the mouth of the applicant to call them as interested witnesses. Even if they are interested witnesses, when they are present there, their evidence should be carefully scrutinised but can not be rejected..

3. On the second point that there was no clear cut finding of grave misconduct, as defined in Rule 8(a) cited supra, by the disciplinary authority while imposing the punishment of

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dismissal, the learned counsel for the applicant draws our attention to the judgement in OA 802/92 of the Principal Bench, wherein the Hon'ble Bench have categorically stated in para 15 that clear cut finding is necessary before inflicting the punishment by the disciplinary authority. We agree with that judgement but in this case a clear cut finding has been given by the disciplinary authority while imposing the punishment as found in the order given to us by the respondents' counsel, which says that "The defaulter Const. (Driver) Baljeet Singh has till 5.30 PM failed to appear or send his written reply today. I therefore presume that he has nothing to say in his defence. The charge against him is quite serious i.e. misbehaving with senior officers. He not only misbehaved with them but used filthy abuses also. Retention of such a person in a uniformed and disciplined force is highly undesirable".

4. We hold that there is a clear cut finding within the meaning of Rule 8(a) of the Delhi Police (Punishment & Appeal) Rules, 1980. Therefore, the contention that there is no clear cut finding of grave misconduct and also the person is not fit for retention in police force are not recorded in the dismissal order by the disciplinary authority falls to the ground. In the circumstances, both the grounds taken by the applicant's counsel having been failed, the application fails and is liable to be dismissed. Accordingly we dismiss the OA with no order as to costs.

Infelig-
(S.R.Adige)
Member (A)
25.10.94

just
(C.J. Roy)
Member (3)
25.10.94

/tvg/