

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.2459/2004

Hon'ble Mr.Justice V.S. Aggarwal, Chairman  
Hon'ble Mr.S.K.Naik, Member(A)

New Delhi, this the 30th day of May, 2005

Ex. Head Constable (Dvr) Arjun Singh  
S/o Shri Rishal Singh  
R/o Village & P.O. – Saniti  
P.S. Mangol Puri  
Delhi.

... Applicant

(By Advocate: Shri Sachin Chauhan)

Vs.

1. NCT of Delhi through  
its Chief Secretary  
New Sachivalaya,  
I.P.Estate  
New Delhi.
2. Joint Commissioner of Police  
Prov & Logistics  
5, Rajpur Road  
Old Police Lines  
Delhi.
3. Dy. Commissioner of Police  
Prov & Logistics  
5, Rajpur Road  
Old Police Lines  
Delhi.

... Respondents

(By Advocate: Shri Rishi Prakash)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant was Head Constable (Dvr.) in Delhi Police. He was

*V.S. Aggarwal*

served with the following charge:

"1. D.R.Birdi, ACP III Bn. DAP, charge you HC (Dvr) Arjun Singh No.7183/DAP (Now 190/L) while you were temporarily working in III Bn DAP and was detailed for duty on 17.09.1996 Jail Van No.DEP-5090 call sign ED-II. While you, HC (Dvr) were carrying UTPs in your jail van in the morning from Tihar Jail to Karkardooma Court, you committed an accident with a two-wheeler scooter near Laxmi Nagar, East Delhi. On enquiry you told that the Jail Van had slightly touched with two wheeler scooter which resulted in breakage of accelerator wire of scooter and there was no injury to the person and scooter therefore the matter was filed by the local Police. On that day when you were taking back the UTPs in your Jail Van from the Karkardooma Court to Central Jail, Tihar you again collided with one unknown Maruti Car near Gate No.1 Central Jail and fled away with the Jail Van from the spot. You reported back at the Tihar Jail at 2.40 P.M. You were directed for making a second trip for taking back the UTPs but you lodged a D.D entry vide No.58 dated 17-9-1996 mentioning therein that you were feeling some headache, pain in your leg and refused to perform duty. An information to this effect was sent to HC (MT) Dharam Vir Singh through wireless, Y-60, the HC (MT) Dharam Vir Singh informed that the second trip duty would be performed by you. Accordingly, a report to this effect was lodged vide D.D. No.54/A at about 3.40 PM, you, HC (Dvr) left for Karkardooma Court along with Jail Van at about 4.00 P.M. HC Rajbir Singh No.11167/DAP VC Gaddi Guard came back to the Central Jail leaving his staff in the above Jail Van and reported vide D.D. No.55/A dated 17-9-1996, that you, HC (Dvr) Arjun Singh 7183/DAP had left the Jail Van in front of Hari Nagar Depot and proceeded to DDU Hospital in a Rickshaw by saying that you were ill and unable to perform second trip for Karkardooma Court. MHC Tihar Jail sent that information to Vikas Puri Lines on Wireless and HC (DVR) Krishan Kumar was sent to Hari Nagar Depot for performing second trip duty. You HC (Dvr) Arjun Singh 7183/DAP came to Vikas Puri Lines in the same Jail Van at 6.40 P.M. vide D.D. No.81/A dated 17-9-1996 and on inspection of the Jail van by SI (MT) it was found that HC (Dvr) Arjun Singh 7183/DAP has caused damage to the Jail Van and there were certain stretches on the right side of the body and iron strips of the back side of the Jail Van was also damaged. A report to this effect was lodged vide D.D. No.80/A dated 17-9-1996. In the said report, the SI (MT) had also made a complaint about the misbehaving attitude of the you, HC (Dvr) Arjun Singh No.7183/DAP. In the evening when SI (MT) and MTI were inspecting the said Jail Van, Shri Ram Singh, the then ACP III Bn DAP was passing near by the MT park of the area also stopped his vehicle to know about the facts and during enquiry made by the ACP you, HC (Dvr) Arjun Singh 7183/DAP did not disclose about your illness and medical rest etc.

Whereas, it is further alleged that you, HC (Dvr) while posted in III Bn. DAP remained absent from duty willfully and unauthorizedly without permission of the competent authority on following different occasions which is in violation of C.C.S. Leave Rules, 1972 and S.O. No.111 of Delhi Police

Sl.No.	D.D.No. & dated of Absent	D.D. No. & dated of arrival from absence	Period of Absence	Days	Hrs.	Mins.
1.	08 18.9.96	26 4.10.96	16	06	10	
2.	06 06.1.97	05 23.1.97	17	03	40	

2. The inquiry officer, who had been appointed, had exonerated him of all the facts mentioned in the charge and only found that two charges, namely, absence from duty from 18.9.1996 to 4.10.1996 and from 6.1.1997 to 23.1.1997 have been proved. He also found that the charge stood further proved to the extent that he left his duty and refused to perform second trip of Jail Van to ED Lock Up and also left the Jail Van near Hari Nagar Depot along with gaddi guard on the same day. The disciplinary authority had imposed a penalty of removal from service vide order dated 8.10.2003. The appeal filed by the applicant has since been dismissed.

3. It becomes unnecessary for us to dwell into all the facts because it has been contended that the disciplinary authority held the applicant guilty of other facts from which he had been exonerated by the inquiry officer and did not record any note of disagreement. This becomes apparent from the following findings of the disciplinary authority:

"I have also gone through the statements of other PWs as well as other material record of the DE file. PW-3, Inspr. Banwari Lal No.D-I/983, deposed

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that he was informed by SI (MT) Raghbir about the accident which was caused by HC (Dvr.) Arjun Singh near Laxmi Nagar. The delinquent did not perform his second trip on the same day. The delinquent went to DDU Hospital after leaving the vehicle at Hari Nagar Depot. He has stated that he along-with the SI (MT) had carried out the inspection of the Jail van No. DEP-5090, scratches and damage on rear side were noticed by them. The delinquent HC (Dvr.) did not show to SI (MT) or any other officer any medical slip regarding his illness and medical rest. Other PWs in the DEs also corroborated that the delinquent while driving the Jail van caused two accidents. As such the pleas taken by the delinquent that he did not cause accident is baseless.

Regarding the others pleas taken by the delinquent that he brought his illness into the notice of senior officers is also baseless. PW-II PW-III and PW-I SI/MT Raghbir Singh, Insp. Banwari Lal MTI and Shri Ram Singh, ACP/11rd Bn. Respectively, delinquent's immediate supervisory officer in their statements deposed that the delinquent neither informed them about the medical rest nor submitted his application to permit his medical rest to avail the same at his home. He left the Govt. vehicle near DDU Hospital without any alternative arrangement made for carrying the UTPs to the destination which is extremely irresponsible act.

Moreover, he absented himself willfully and unauthorisedly without any intimation/permission of the competent authority for a period of 33 days 9 hours and 50 minutes from 18.9.96 to 4.10.96 and 6.1.97 to 23.1.97. He pleaded that due to illness he did not come to get his medical rest permitted is also not convincing. Mere advising medical rest by a doctor does not confer any right to leave."

4. We do not dispute the right of the disciplinary authority to record a note of disagreement in case he ~~differs~~ from the inquiry officer but rules of fairness demand that copy of the same should be made available to the

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alleged delinquent who may get an opportunity to represent against it. In the present case, it has not been so done.

5. Resultantly, we allow the present application and quash the impugned orders. It is directed that the disciplinary authority may proceed afresh from the stage the report of the inquiry officer was received. The applicant would be entitled to the consequential benefits. Keeping in view this fact, we are not dwelling into any other controversy.

*S.K.Naik*  
(S.K.Naik)  
Member(A)

*V.S. Aggarwal*  
(V.S. Aggarwal)  
Chairman

/dkm/