

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2728/92

New Delhi, this the 12th day of December, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)
Hon'ble Shri N. Sahu, Member (A)

(Q)

Const. Gian Singh
N. 2424/DAP
Ist Bn. DAP New Police Lines,
Kingsway Camp, Delhi. Applicant
(By Advocate: Shri B.S. Mainee)

Versus

Union of India through

1. Additional Commissioner of Police,
(DAP) Police HQ MSO Building,
I.P.Estate, New Delhi.
2. Deputy Commissioner of Police,
New Police Line, Kingsway Camp,
IIIrd Bn.DAP ,New Delhi. ... Respondents

(By Advocate: Shri Anoop Bagai)

O R D E R

Dr. Jose P. Verghese, Vice-Chairman (J) -

The petitioner in this case was a constable and was proceeded against departmentally on the allegation that on 11.2.1991 at about 9.15 p.m., the petitioner created nuisance and used abusive language under the influence of liquor and also misbehaved with one constable Mukesh Kumar who was also performing night duty alongwith the petitioner. It was also alleged that the petitioner used threatening language against another Head Constable Yogesh Kumar and this misbehaviour of the petitioner under the influence of liquor is a misconduct and accordingly charge sheet was issued and after receipt of the report from the Inquiry Officer, the petitioner was dismissed from service by an order dated 7.10.1991. The petitioner filed

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2

an appeal against the said order and the appellate authority after going through the appeal filed by the petitioner and finding that the principal allegation of petitioner being under the influence of liquor not having been proved, the punishment of dismissal was reduced to that of forfeiture of one year approved service permanently for a period of one year, entailing proportionate reduction in his pay. The said appellate order passed on 8.5.1992 was under challenge in this OA.

(a)

2. One of the main contentions on behalf of the petitioner was that when the departmental proceedings against the suspended employee for imposition of major penalty was initiated and subsequently only a minor penalty was imposed, the suspension can be said to be wholly unjustified and in terms of FR 54 (b) full pay and allowances is to be paid for the entire period of suspension.

3. On behalf of the respondents on the other hand it was stated that the punishment now being awarded by the appellate authority replacing the punishment of dismissal is not a minor penalty rather in accordance with the rules, the penalty awarded in this is a major penalty and we are satisfied that the submission of the petitioner is ill-founded.

4. It was further submitted on behalf of the petitioner that there is no evidence available against the petitioner that he has committed the misconduct alleged. The submission made by the petitioner in this regard was in fact those made by him in appeal and the same was duly considered by the appellate authority. It was stated that

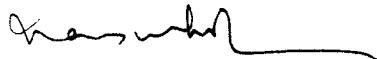
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there was no allegation of misbehaviour substantiated by the inquiry officer against the Constable Mukesh Kumar since he himself had deposed that nothing of that sort has happened. On the other hand evidence of using threatening language against Head Constable Yogesh Kumar was very much available from the proceedings and as such the present case cannot be said to be one belonging to the class of 'no evidence'. It is also found that the appellate authority has infact considered the entire case, in all its aspects and had reduced the punishment of dismissal to that of forfeiture of one year approved service permanently, for a period of one year entailing proportionate reduction in his pay.

(10)

5. In the circumstances that no other grounds have been alleged, this OA fails and no order as to costs.



(N. Sahu)
Member (A)

naresh


(Dr. Jose P. Verghese)
Vice-Chairman (J)