

Item No.4



**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No.7470/2020
(S.W.P. No.2252/2003)

Monday, this the 31st day of May, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Tarun Shridhar, Member (A)

Khursheed Ali s/o Choudhary Bashir Ahmed
r/o Village Ragura, Bye Pass, near Batra Hospital
Jammu – Age 33 years

... Applicant

(Mr. M I Sher Khan, Advocate)

Versus

1. State of Jammu & Kashmir, through Chief Secretary
Govt. of Jammu & Kashmir,
Civil Secretariat, Jammu
2. Principal Secretary to Home,
Home Department, Govt. of Jammu & Kashmir,
Civil Secretariat, Jammu
3. Director General of Police, J & K, Jammu
4. Inspector General of Police, Jammu Zone, Jammu
5. Dy. Inspector General of Police, Jammu Range, Jammu
6. Senior Superintendent of Police, Jammu

... Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

ORDER (ORAL)**Mr. Tarun Shridhar, Member (A):**

The applicant, who is a Constable in the Jammu & Kashmir Police, is aggrieved by an order passed by the Senior Superintendent of Police, Jammu, by virtue of which a penalty of stoppage of one increment for one year has been imposed upon him. This penalty has been imposed pursuant to an inquiry held against the applicant on account of alleged misconduct and indiscipline.

2. Brief facts of the case are that during 07/08.04.2000, the applicant was found absent from his duty and subsequently, he was found in a drunken state during the course of duty. The case of the applicant is that while posted on *naka* duty, he suddenly fell ill resulting in vomiting and loose motions. He informed the other person on duty, one Mr. Ratan Lal, that he needed to look for a toilet immediately and accordingly, left. The applicant, apart from facing the allegation of absence from duty, is also charged with being in a drunken state, which he outrightly denies. Hence, he filed SWP No.2252/2003 before the Hon'ble High Court of Jammu & Kashmir.

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3. We heard the learned counsel for applicant and he reiterates the averments made in the T.A. that the disciplinary proceedings suffer from serious infirmities, as adequate opportunity was not accorded to the applicant. The learned counsel also questions that since the applicant was not subjected to any medical examination, the allegation of his being under the influence of alcohol false *ab initio*. Apart from that, the learned counsel also invokes the principle of natural justice, stating that the applicant was not afforded any opportunity to cross-examine the witnesses or to lead his defence adequately. Apart from this, the applicant and his learned counsel question the entire proceedings on account of factual inaccuracy.
4. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.7470/2020.
5. We heard Mr. M I Sher Khan, learned counsel for applicant and Mr. Sudesh Magotra, learned Deputy Advocate General and also perused the documents on record.
6. At this stage, it is neither possible nor desirable to go into the factual accuracy of the facts of the case. The fact that the

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applicant was absent from duty is not contested, although the reason for the same is different when it comes to the applicant's version and the perception of the respondents. The case against the applicant has been inquired into by a senior officer and it is on the basis of this inquiry, that a penalty of stoppage of one increment for one year has been imposed upon the applicant. There are no cogent grounds to question the veracity or the fairness of this inquiry, as the applicant has not been able to show any prejudice on the part of the inquiry officer. The Senior Superintendent of Police, Jammu has examined the contents of the inquiry and passed the order imposing the penalty by way of a reasoned and speaking order, which discusses the evidence against the applicant. He had also furnished an appeal against this order of penalty before the Deputy Inspector General of Police, who too, has disposed of the appeal by way of a reasoned order. We do not find any grounds to question the fairness and objectivity of these orders.

7. The applicant belongs to a disciplined uniformed force, which demands high and exacting standards of discipline. In the instant case, the penalty imposed upon the applicant is not severe by any stretch of imagination. There being no substantive grounds to doubt the factual accuracy of the incident, leading to this penalty, or any legal infirmity in the



entire proceedings, we do not find any merit in the T.A., which is accordingly dismissed.

There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 31, 2021

/sunil/