

**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No.61/7785/2020
(S.W.P. No.1347/2007)

Wednesday, this the 13th day of January, 2021

(Through Video Conferencing)



Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Anchal Kumar, (aged 53 years), s/o Shri Bihari Lal,
r/o Karwal, Tehsil Hiranagar, District Kathua.

.Applicant

(Mr. Nitin Bhasin, Senior Advocate)

Versus

1. State of Jammu and Kashmir,
Through Commission-cum-Secretary to
Government, Home Department, J & K Govt.,
Civil Secretariat, Srinagar.
2. Director General of Police, J&K, Srinagar.
3. Deputy Inspector General of Police,
Jammu Range, Jammu.
4. Commandant, Jammu Kashmir Armed
Police (J.K.A.P), 4th Bn., Srinagar.
5. Deputy Superintendent Adjutant, JKAP,
4th Bn., Srinagar.

..Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant was working as Constable in the Jammu and Kashmir Armed Police VII Battalion from 24.10.1983. He

was entrusted with the carpentry work. A charge memo was issued to him alleging that being aware of the order dated 24.10.1983, he remained unauthorizedly absent and he disobeyed the orders of his superiors.



2. The applicant submitted his explanation, and not satisfied with that, the Disciplinary Authority appointed an Inquiry Officer. A report was submitted stating that the applicant remained unauthorizedly absent and is also guilty of disobedience. Taking the report and the explanation of the applicant into account, the Disciplinary Authority passed an order dated 12.09.1984, against the penalty of stoppage of annual increment for a period of three years. Aggrieved by that, the applicant filed an appeal.

3. Another charge memo was issued to him alleging that on 8.5.1984, he entered the premises where the officers were meeting and made derogatory remarks and used unparliamentary language towards his senior officers. He was placed under suspension and thereafter the disciplinary proceedings were initiated, and an inquiry was conducted. The inquiry officer submitted his report holding that the charge against the applicant is proved. A show cause notice was issued on 14.09.1984 to the applicant requiring him to explain as to why the punishment of removal from service shall not be imposed. On a consideration of the representation made by the



applicant, the Disciplinary Authority passed an order dated 06.02.1985, imposing the punishment of reduction of the pay scale to the minimum of his grade, for a period of 5 years. The appeals preferred by the applicant against those two orders were rejected through order dated 07.04.2007. Challenging the orders of the punishment as well as the orders of the Appellate Authority, the applicant filed SWP.No.1347 of 2007 before the Hon'ble High Court of Jammu and Kashmir.

4. The Writ Petition has since been transferred to this Tribunal in view of re-organization of the State of Jammu & Kashmir, and renumbered as T.A. No.7785/2020.

5. Today, we heard Shri Nitin Bhasin, learned counsel for the Applicant and Shri Sudesh Magotra, learned Deputy Advocate General, for the Respondents.

6. Two sets of disciplinary proceedings were initiated against the applicant in the years 1983 and 1984. In the first one, the allegation was that he remained unauthorizedly absent and disobeyed the instructions of his superiors. In the second one, the allegation was that he unauthorisedly entered the premises where the seniors were holding meeting, and passed derogatory remarks and used unparliamentary language. In the first one, the punishment of stoppage of annual increment for a period of three years was imposed. In the second one, though the proposal was to impose the punishment of removal, the

Disciplinary Authority took compassion and imposed the punishment of reduction to the minimum of his grade for a period of 5 years. The appeals preferred against the orders were rejected.



7. In the Writ Petition, the applicant did not point out any serious violation of or, deviation from, the prescribed procedure. The Tribunal cannot act as an Appellate Authority. The finding recorded by the Inquiry Officer cannot be said to be perverse. Further, the punishment cannot be said to be disproportionate, particularly when the punishment of reduction to the minimum of the pay scale was imposed as against the proposal for removal. At any rate, the applicant has retired from service during the pendency of the proceedings. In a disciplined force like Armed Police, the acts attributed to by the applicant cannot be excused.

8. We do not find any merit in the TA and the same is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

January 13, 2021

/sunil/dsn/sd/shakhi