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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.**

O.A. No. 275/2001

DATE OF DECISION : 08-08-03

Karan Singh : Petitioner

Mr. Vijay Mehta : Advocate for the Petitioner

Versus

Union of India & Ors. : Respondent (s)

Mr. Vinit Mathur : Advocate for the Respondents

**Coram : Hon'ble Mr. Justice G.L.Gupta, Vice-Chairman,
Hon'ble Mr.S. K. Malhotra, Member (A).**



1. Whether Reporters of local papers may be allowed to see the Judgment? *No*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgment? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

M. K. Malhotra
(S. K. MALHOTRA)
MEMBER (A)

(G.L.GUPTA)
VICE-CHAIRMAN

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR**

Date of Decision : 08.08.03

Original Application No. 275/2001.

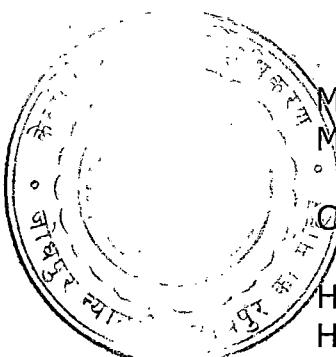
Karan Singh son of Shri Padam Singh, aged about 44 years resident of 6/39, Near Dwarika Das Nagar, Madhuban Housing Board, Basni, Jodhpur, last employed on the post of Sepoy in the office of Central Excise Division, Jodhpur.

... APPLICANT.

Versus

1. Union of India through the Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. Commissioner, Central Excise Commissionate, Revenue Central Building Near Statute Circle, Jaipur-1.
3. Joint Commissioner (P&V), Office of the Commissioner, Central Excise, Revenue Central Building Near Statute Circle, Jaipur-1.

...RESPONDENTS.



Mr. Vijay Mehta, counsel for the applicant.

Mr. Vinit Mathur, counsel for the respondents.

CORAM

Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.

Hon'ble Mr. S. K. Malhotra, Administrative Member.

ORDER

(per S.K.Malhotra, Administrative Member)

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant has mainly prayed for the following relief:

"(i) That the impugned charge sheet dt. 30.4.1997 Annexure A/1, Penalty of compulsory retirement, order dt. 14.3.2001, Annexure A/3, ordering the suspension period to be treated as spent on duty only for pension purposes and not for all purposes and appellate order dt. 15/25.3.2001, Annexure A/4, rejecting the appeal, may be

declared illegal and the same may be quashed and the applicant allowed all consequential benefits".

2. The facts of the case in brief are that the applicant was appointed as a Sepoy on 27.11.1977 at Jaipur in Custom & Central Excise Department. While he was working in respondents office at Jodhpur, on 31.1.1996 he was found in a drunken state. He was taken to the Hospital for medical check up, where it was confirmed that he had consumed liquor. A criminal case was registered against him. The applicant accepted the guilt before the Court of Additional Civil Judge and was imposed with a fine of Rs.50/-, which he paid. The respondent department suspended the applicant on the very next date i.e. 1.2.1996 and issued a charge sheet on 30.4.1997 (Annexure - A-1). The charges against him were that he had consumed liquor while in office, mis-behaved and abused senior officers and also threatened those who tried to calm him down. Because of his mis-conduct he was charged for violation of Rule 3 (1) (iii), 3A(a) and 22 of CCS (Conduct) Rules, 1966 (Annexure - A-1). The applicant was given time to make representation, if any, against the charge sheet served on him. The applicant did not file any representation. An inquiry was conducted against him, in which the applicant duly participated. Based on the evidence and the statement of witnesses, the Inquiry Officer in his report held that the charges levelled against the applicant were proved. Taking into consideration the findings of the Inquiry Officer and other relevant facts, the Disciplinary Authority imposed a penalty of Compulsory Retirement on the applicant. He submitted an appeal, which was

rejected by the Appellate Authority. The period of suspension has been treated by the respondents as on duty for the purposes of pension only. The applicant has filed the present O.A. against the penalty imposed on him.

3. It has been stated by the applicant that he was denied the opportunity of defending himself, inasmuch as, some of the documents asked for by him viz. medical report, log book of the car in which the officer who has made the complaint had travelled, attendance register etc. It has also been alleged that Shri R.S.Gotecha, Assistant Commissioner who had filed complaint against the applicant was at Pali upto 5.30 p.m. on the date of alleged incident and as such he could not have filed the complaint at Jodhpur. It is further alleged that he had been implicated for extraneous reasons and the impugned charge sheet, as well as, the penalty order is illegal and violative of Articles 14 and 16 of the Constitution of India.

4. The respondents have filed a detailed written statement in which they have stated that the applicant had admitted his guilt as is evident from the statement made by him before the Additional Civil Judge and he had also paid the fine. The charges levelled have also been proved in the disciplinary enquiry conducted against him. There is no shortcomings in the procedure adopted by the Inquiry Officer and the Disciplinary Authority. It has also been stated by the respondents that the applicant's statement that Assistant Commissioner was at Pali upto 5.30 p.m. is untrue. In fact, he had arrived in the office at 5.25 p.m. and when the matter was brought to his notice, he filed the complaint with the police authorities. Insofar as, the documents asked for are concerned, it has been submitted by the respondents that the concerned case file which was with the Additional Civil Judge, Jodhpur had already been weeded out and as such the copy of the FIR and medical report could not be supplied to the applicant. The other documents like log book, attendance register asked for by the applicant were not relevant to the inquiry that was being held against the applicant and as such were not supplied to him.

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5. We have heard the learned counsel for the parties and have also gone through the pleadings.

6. The main point brought out by the learned counsel for the applicant was that the required documents for the defence of the applicant were not furnished to him. In the absence of these documents the applicant could not defend himself effectively during the inquiry. In this connection, he cited the judgment of the Hon'ble Calcutta High Court in the case of Gadadhar Ramtin Vs. Food Corporation of India & Ors. [1989 (4) SLR 72], that if any delinquent feels that a particular document would help him to establish his innocence or to build up his defence, the Inquiring Authority cannot refuse such document even on the ground that it was not relevant. The learned counsel for the applicant also pleaded that the imposition of penalty of compulsory retirement for the alleged mis-conduct on the part of the applicant was dis-proportionate considering the fact that it was the first charge against him during his service career. In support of this point he relied upon the following Judgments :

(i) In the case of Jaswant Singh Vs. Pepsu Roadways Transport Corporation and Ors. [1983 (3) SLR 472], wherein a Driver who had consumed liquor while on duty and a punishment of dismissal from service was found to be too severe and he was imposed with a penalty of stoppage of three increments in the time scale.

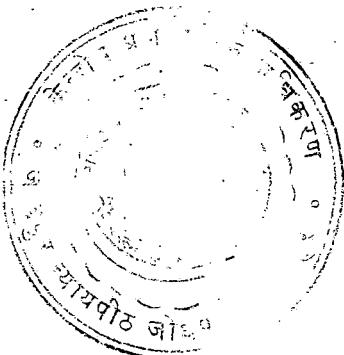
(ii) In the case of Ved Prakash Gupta Vs. Delton Cable India (P) Ltd. in which dismissal of an employee on the charge of abusing some workers and officer of the Management was held unjustified and set aside.

7. The learned counsel for the applicant stated that considering the above judgments, the penalty of compulsory retirement was disproportionate and the Tribunal should intervene in the matter in the interest of justice.

8. The learned counsel for the respondents explained that the medical report and the FIR could not be supplied to the applicant as the file containing the documents was weeded out by the

office of District and Session Judge, Jodhpur. The order of the Trial Court speaks volumes of the mis-conduct of the applicant. The absence of those documents has not caused any prejudice to him. Shri R.S.Gotecha who had gone to Pali on official tour had returned to headquarters at Jodhpur at 1725 hours (Annexure - R-5). He stated that the basic issue is that the applicant had consumed liquor in office and mis-behaved, abused staff and officers and created nuisance. He was advised to be calm but he was in such an inebriated state that he did not heed to any advice and kept shouting and abusing. The applicant has made a confessional statement in the court. The enquiry was conducted in accordance with the laid down procedure in which his guilt has been proved beyond any doubt. The disciplinary authority imposed a penalty of compulsory retirement. His appeal has been dismissed by a detailed speaking order in which all the points raised by the applicant have been dealt with.

9. There is no doubt that the charge against the applicant that he had consumed liquor while in office and mis-behaved/abused some of his colleagues and seniors, has been proved without any iota of doubt. Further, the guilt has also been accepted by the applicant in the Court of the Additional Civil Judge and the same has also been proved during the course of inquiry. The inquiry has also been conducted in accordance with the prescribed procedure. The jurisdiction of this Tribunal in matters of departmental inquiry is quite limited. The Apex Court has held in series of decisions in the case of B.C.Chaturvedi Vs. Union of India [1995(8) J.T. S.C. 65], State of Tamilnadu Vs. T.V.Venugopalan [1994 (6) S.C.C. 302], Union of India Vs. Upendra Singh [1994 (3) S.C.C. 357], Government of Tamil Nadu Vs. A.Rajapandian [1995(1) S.C.C. 216], Union of India Vs. B.S.Chaturvedi [1995 (6) S.C.C. 749], that the disciplinary authority is the sole judge of facts and that this Tribunal has no jurisdiction to appraise or re-appraise the evidence to substitute its own findings over the findings of the disciplinary authority as it is not supposed to act as an appellate authority. The Tribunal has no power to re-appreciate the



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evidence while exercising power of judicial review. We find that there is no legal flaw in the inquiry conducted against the applicant. The finding of guilt of the applicant reached by the disciplinary authority cannot be faulted on any ground whatsoever. The order of the respondents treating the period of suspension as on duty for the purpose of pension only is also in accordance with the relevant rules and no fault can be found with it. We are also convinced that no prejudice has been caused to the applicant on account of non-supply of documents asked for by him.

10. The Judgment cited by the learned counsel for the applicant where the Hon'ble Apex Court has held that the punishment of dismissal of service is severe, are based on the facts and circumstances of that particular case and no point of law has been established. Secondly, these judgments are distinguishable to the extent that the penalty in those cases was dismissal, whereas in the instant case, the applicant has been imposed the penalty of compulsory retirement. The applicant was found in a drunken state while in office and had abused and threatened the staff and officers. This is a very serious act of mis-conduct and cannot be taken lightly. The respondent department could have imposed the penalty of even dismissal in this case but they have been quite considerate in imposing the penalty of compulsory retirement which in our opinion is justified and is not disproportionate to the gravity of the guilt. In any case, the penalty imposed is not such as would shock the conscience of the Tribunal. We will not, therefore, like to intervene in the matter.

11. Considering the facts and circumstances of the case, the O.A. turns out to be devoid of any merit and is accordingly dismissed. No order as to costs.

On behalf of
(S.K.MALHOTRA)
ADMINISTRATIVE MEMBER

G.L.Gupta
(G.L.GUPTA)
VICE-CHAIRMAN

Recd
1/1/29
Supt
Recd
1/1/29

Part II and III destroyed
in my presence on 26.3.29
under the supervision of
section officer (J) as per
order dated 13.1.27.29

Section officer (Record)