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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. 770/92.

Dt.of Decision : 17-10-95.

K. Shanker

.. Applicant.

Vs

1. The Commanding Officer,
Air Force Station,
Begumpet, Bowempally Post,
Secunderabad 500 011.

2. The Chief Administrative Officer,
Air Force Station, Begumpet,
Hyderabad.

.. Respondents.

Counsel for the Applicant : Mr. K. Sudhakar Reddy

Counsel for the Respondents : Mr. N.V.Ramana, Addl.CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

O.A. No. 770/92

JUDGEMENT

(As per Hon'ble Sri A.B. Gorthi, Member (A))

The applicant is a Watchman working in the Security Section of the Air Force Station, Begumpet, Hyderabad. On 4-9-91 he was served with a Charge Memo alleging that when detailed on duty at Range Area gate on 16-8-91 from 2100 hrs to 0730 hrs on 17-8-91, he was found sleeping at 0615 hrs on 17-8-91 and was subsequently found missing from his post at 0715 hrs when checked by JWO, M.S. Reddy and JWO, i/c Police. Though the applicant pleaded innocence and stated that he was neither sleeping on his Post nor was missing therefrom, he was inflicted the penalty of withholding of one increment for one year. His appeal was turned down and hence this O.A. with a prayer that the penalty be set aside.

2. Heard learned counsel for both the parties. Sri Sudhakar Reddy, learned counsel for applicant has strongly contended that the applicant was innocent and that the charge was hoisted against him on account of the hostility of some persons in the organisation. In this context, we have perused the records from which we find that soonafter the alleged incident, that is on 17-8-91 itself, there was a written report from the Station Security Officer to the Officer i/c, Civil Administration bringing to ~~his~~ ^{the} notice of lapses on the part of the applicant, for taking action as considered



necessary. It would thus be evident that the penalty was imposed after taking the facts of the case into consideration and not on account of any hostility towards the applicant.

3. Although in the O.A. it was contended that the penalty was imposed by an authority not competent to do so, keeping in view the explanation offered by the respondents in their counter affidavit, the applicant's counsel did not press that issue before us. It is obvious from the counter affidavit that the penalty was imposed by the authority who had the power to inflict a minor penalty.

4. Sri Sudhakar Reddy contended that even presuming that the applicant was found sleeping at 0615 hrs at his Post and later was found missing from the Post at 0715 hrs, such a minor lapse would not in any case amount to misconduct as would invite disciplinary action. In this context, he has drawn our attention to judgement of the Supreme Court in Union of India & Ors V/s J. Ahmed reported in SLJ 1979 SC 308. That was the case of an officer of IAS cadre. The allegation against him was that he did not take appropriate action to quell disturbance arising on account of language dispute in Nowrang District. In that context, it was observed by the Supreme Court that a single act of omission or error of judgement ~~is~~ ordinarily not constitute misconduct, though if such error or omission results in serious or atrocious consequences the same may

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To

1. The Commanding Officer, Air Force Station, Begumpet, Bowempally Post, Secunderabad-11.
2. The Chief Administrative Officer, Air Force Station, Begumpet, Hyderabad.
3. One copy to Mr.K.Sudhakar Reddy, Advocate, CAT.Hyd.
4. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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amount to misconduct. It was further observed that unless the consequences directly attributable to negligence would be such as to be irreparable or the resultant damage would be so heavy, a lapse in performance of duty or error of judgement in evaluating a situation ^{not} would amount to misconduct. The instant case before us is clearly distinguishable on facts. The applicant was a Watchman whose primary duty is to be alert on his Post during the tour of his duty. Moreover, this is a case where the applicant was a member of the security section of an Air Force installation and as such his sleeping upon the Post or quitting the same without permission cannot be said to be of no consequence. If the competent authority has treated it as misconduct and has decided to proceed against the employee, it cannot be said that there was any irregularity in the same.

5. Finally, Sri Reddy contended that the penalty imposed upon the applicant is rather harsh or excessive, because the applicant at the relevant time had rendered about 18 years of otherwise unblemished service. There is no dispute that the penalty of withholding of increment for one year is a minor penalty. Keeping in view the charge against the applicant it cannot be said to be either excessive or harsh.

6. In the result, we find no merit in the O.A. and the same is hereby dismissed. No costs. //

Shankar
(A.B.Gorthi)
Member (A)

Neeladri Rao
(V. Neeladri Rao)
Vice Chairman

Dt. 17-10-1995
Open Court Dictation.

kmv

Deputy Registrar
Anil

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND
A B Gordeji
THE HON'BLE MR.R.RANGARAJAN :M(A)

DATED: 17-10-1995

ORDER/JUDGMENT

M.A./R.A./C.A.No.

in
O.A.No. 770/92

T.A.No. (W.P.No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

p.v.m.

