

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA 3029/2003

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New Delhi, this the 1st day of July, 2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr. S.A. Singh, Member (A)

Dharam Pal Singh  
S/o Late Sh. Samman Singh  
R/o C-109, Garhi, Prakash Mohalla  
New Delhi - 110 065.

...Applicant

(By Advocate Sh. L.R. Khatana)

V E R S U S

1. Chief Secretary  
Govt. of NCT of Delhi  
Delhi Govt. Secretariat  
Indraprastha Estate  
New Delhi.

2. Principal Secretary-cum-Commissioner (Tpt)  
Transport Department  
Govt. of NCT of Delhi  
5/9, Under Hill Road  
Delhi.

3. Shri P.C. Chaturvedi  
Enquiry Officer & Dy. Director (Tpt)  
Govt. of NCT of Delhi.  
5/9, Under Hill Road  
Delhi.

...Respondents

(By Advocate Sh. Ajesh Luthra)

O R D E R (ORAL)

Mr. Justice V.S. Aggarwal,

The applicant assails the order passed by the disciplinary as well as appellate authorities dated 4-2-2000 and 13-5-2003 respectively. The relevant facts are that the applicant had been served with the following articles of charge :-

"Article-I"

That S/Sh. Jagdish Chand Chauhan-PLTI, Jagdish Prashad, PLTI alongwith Sh. Dharam Pal Singh, DTI, while posted at Sarai Kale Khan Zonal Office, unauthorisedly stayed in the zonal office, Room No.10 beyond 6.00 PM on 25-1-95. S/Sh. Jagdish Chand Chauhan, Jagdish Prashad and Dharam Pal have therefore behaved in a manner unbecoming of a Government servant and thus violated Rule-3 of CCS (Conduct) Rules, 1964.

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*(Signature)*

Article-II

That S/Sh. Jagdish Prashad, Jagdish Chand Chauhan and Sh. Dharam Pal procured a bottle of rum through Sh. Ameen Ahmed, Chowkidar. After the chowkidar brought a bottle of rum all the 3 officials continued to remain in the office at Sarai Kale Khan till beyond 8.00 P.M. unauthorisedly."

2. The enquiry was held. The Enquiry Officer had recorded findings that the charges stood proved. The disciplinary authority imposed a minor penalty of reducing his pay by three stages in the existing pay scale without cumulative effect. The appeal filed by the applicant was dismissed.

3. During the course of submissions, learned counsel for the applicant raised various pleas. We are not dwelling into most of them. The reason being that it was pointed that the applicant in the article of charge has been shown to be posted at Sarai Kale Khan Zonal Office while in fact he was posted at Burari. He also asserts that the disciplinary authority has taken into consideration extraneous factors, i.e., he has considered the report of the preliminary enquiry by Sh. S.S. Ghankrokta and also the report of one Sh. Chander Bhan which was never supplied. He has referred to various documents and it is unknown as to what were those documents which were considered by him.

4. Learned counsel for the respondents did not accept the contention and pointed that during the course of the enquiry, applicant himself stated that they did not want to examine the Enquiry Officer, S.S. Ghankrokta and, therefore, the preliminary enquiry report was considered in this regard.

5. So far as the plea of the learned counsel for the respondents is concerned, it is not in dispute at either end that after such statement notice was issued by the Enquiry Officer to the said witness but he did not appear. In this

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backdrop, cross-examination would only arise after the witness was examined. In the face of what we have recorded above, contention of the learned counsel for the respondents has to be stated as rejected.

6. It is a settled principle in law that the disciplinary authority should pass his findings only on basis of the material on record. We are conscious of the fact that in judicial review there is a limited scope of interference on the findings of fact. However, at the risk of repetition, we again state that findings must be on the basis of evidence on record and documents proved which can be considered. Herein the disciplinary authority had considered the preliminary enquiry report regarding which the witness had not appeared. The report of one Sh. Chander Bhan, MLO is not on record nor relied upon and 'certain documents' are mentioned to have been considered which is anybody's guess and to what they were about. This prompts us to take a view that extraneous factors had been taken into consideration and, therefore, the order of the disciplinary authority and appellate authority cannot be sustained.

7. As a result of these reasons, we quash the impugned orders and direct, if deemed appropriate, disciplinary authority may pick up the loose threads and pass a fresh order taking into account the totality of the facts and circumstances.

8. In the face of what we have recorded above, it will be inappropriate on our part to express any opinion on the other part of the arguments.



(S.A. Singh  
Member (A)

/vikas/



(V.S. Aggarwal)

Chairman