

Devender Kumar Vs. Govt of Nct of Delhi and ors

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Court : Delhi

Decided On : Sep-29-2011

Judge : Sanjiv Khanna, J.

Appeal No. : WRIT PETITION (C) No.7248/2011

Appellant : Devender Kumar

Respondent : Govt of Nct of Delhi and ors

Advocate for Def. : Mr. Rajiv Nanda; Mr. Abhijeet Kakoti, Adv.

Advocate for Pet/Ap. : Mr. Anil Singal, Adv.

Judgement :

1. After conducting departmental enquiry, the disciplinary authority by order dated 1st June, 2007 directed that the five years' approved service of the petitioner herein, Devender Kumar, be forfeited permanently with immediate effect entailing reduction in his pay from Rs. 4220/- P.M. to Rs. 3795/- P.M. It was also directed that the suspension period from 13th September, 2006 to 19th October, 2006 should be treated as 'not spent on duty'. The Appellate Authority by order dated 9th May, 2008 reduced the punishment to that of forfeiture of three years' approved service, permanently entailing a reduction of pay from 4220/- P.M. to Rs.3965/- P.M. The treatment of the suspension period was upheld.

2. The petitioner, Constable in Delhi Police, challenged the enquiry proceedings and the punishment in O.A.No.1796/2009, which has been dismissed by the Central Administrative Tribunal, Principal Bench (tribunal, for short) by the order dated 17th May, 2010.

3. This writ petition has been filed after about fifteen months from the date of the passing of the impugned order by the tribunal. Learned counsel for the petitioner submits that the enquiry proceedings are vitiated as the MLC and the doctor's report that the petitioner had consumed alcohol or was smelling of alcohol was not proved and consequently the allegation that the petitioner had consumed alcohol was not proved. Learned counsel for the petitioner submits that blood sample was not taken and, therefore, the orders of the authorities are based upon mere surmises and conjectures.

4. We do not find any merit in the contentions raised. Pursuant to DD No.57 dated 10th September, 2006 and Report dated 11th September, 2006, departmental proceedings were initiated against the petitioner vide order dated 10th October, 2006. The allegation against the petitioner was that he, in a drunken condition, had misbehaved with Sub Inspector Shiv Raj Singh. Seven witnesses were examined before the enquiry officer. The statement of said witnesses have been highlighted and referred to in the enquiry report. They have stated that the petitioner had abused SI Shiv Raj Singh and other officials and had physically pushed the staff and had also raised his hand to slap SI Shiv Raj Singh. It has been also recorded that the petitioner apparently had a fight with someone else and was under the influence of alcohol. Even the two defense witnesses did not fully support the case of the petitioner and had stated that they heard noises and had seen petitioner and SI Shiv Raj Singh quarrelling.

5. The petitioner was/is in service with the Delhi Police and was/is expected to maintain discipline. The authorities concerned after conducting a detailed enquiry, in which principles of natural justice were followed and after examining the material have come to the conclusion that the petitioner had misbehaved and had committed an act of indiscipline with deliberate intention. The tribunal has upheld the said findings holding, inter alia, that there was sufficient material, even if the

medical reports were ignored.

6. In view of the aforesaid, we do not find any reason to interfere with the order passed by the tribunal and accordingly the present petition is dismissed in limine.

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