
(2007) 04 AHC CK 0135
In the Allahabad High Court

No. 913126828 Ex. Constable Driver, Girwar Singh Tomar	APPELLANT
Vs	
Union of India (UOI)	RESPONDENT

Date of Decision : 10-04-2007

Acts Referred:

Citation : (2007) 5 ADJ 345 : (2007) 3 AWC 2773 : (2007) 113 FLR 1057 :
(2007) 2 UPLBEC 1527

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Judgement

Vineet Saran, J.—The petitioner was a Constable Driver in the Central Reserve Police Force. By an order dated 21.10.1999, he was dismissed from service on certain charges for which he was held guilty after enquiry. The appeal of the petitioner was dismissed by the respondent No. 3 vide order dated 7.2.2000. The revision filed by the petitioner was also dismissed by the respondent No. 2 vide order dated 25.9.2000. Aggrieved by the aforesaid orders, this writ petition has been filed.

2. I have heard Sri V.K. Singh, learned Senior Counsel, assisted by Sri Subhranshu Shekhar, learned Counsel appearing for the petitioner as well as Sri B.K. Singh Raghuvanshi, learned Counsel appearing for the respondents. Pleadings have been exchanged and with consent of the learned Counsel for the parties, this writ petition is being disposed of at this stage.

3. The charge against the petitioner was firstly that the petitioner was driving the official vehicle after consuming liquor, and secondly that he met with an accident, of which he did not report to his superior officers.

4. The accident which had taken place is said to have been caused by the rear part of the vehicle driven by the petitioner, in which a cycle was damaged. The submission of the learned Counsel for the petitioner is that the accident was not of such nature in which any person had been injured. It has also been submitted that no complaint with regard to any such accident was ever lodged. As regards

the consumption of liquor by the petitioner, the submission of the learned Counsel for the petitioner is that the petitioner had consumed liquor after returning back and not prior to going on duty. In support of the same he has placed reliance on the evidence adduced by the co-passenger in the vehicle who has stated that he did not consume liquor in his presence. The petitioner was, however, medically examined and it was found that he had consumed liquor. In evidence it has also come that another Hawaldar. had asked the petitioner to bring a bottle of English wine for him and that the petitioner had consumed one peg of liquor and then went away with the vehicle. The explanation of the petitioner is that the said consumption of liquor was made by the petitioner after returning from duty. On this basis, learned Counsel for the petitioner states that the petitioner had not consumed liquor while on duty.

5. Be that as it may, in the facts of this case, even if it is accepted that the two charges are proved against the petitioner, then too the ultimate punishment of dismissal from service is too harsh and totally disproportionate to the charges proved against him.

6. In the case of *Sahdeo Singh v. U.P, Public Services Tribunal* 2001 (2) ESC 511 in similar facts and circumstances, after holding that although the petitioner does deserve some punishment and that the punishment of dismissal was too harsh, this Court held that a lenient view should be taken and some lesser punishment should be awarded and the order of dismissal was set aside and the punishment was reduced to that of reinstatement in service with only 25% back wages. Further in the case of *Amarjeet Singh v. State of U.P.* 2004 (1) E.S.C. 366, in almost similar facts, after discussing the various decisions of the Apex Court as well as this Court, the Court set aside the order of dismissal and imposed the punishment of withholding three increments with cumulative effect and reinstatement in service without back wages.

7. In view of the aforesaid facts and circumstances of this case and keeping in view the above mentioned judgments rendered by this Court, the ultimate punishment of dismissal from service on the charges proved against the petitioner does not appear to be justified as the same is shockingly disproportionate to the charges proved against the petitioner.

8. In such view of the matter, the impugned orders dated 21.10.1999, 7.2.2000 and 25.9.2000 passed by the respondents No. 4, 3 and 2 respectively deserve to be set aside and-are, accordingly, quashed. The matter is remanded back to the disciplinary authority to pass fresh orders, in accordance with law, after taking into account the principles laid down in the aforementioned decisions, within a period of three months from the date of production of a certified copy of this order before him.

9. This writ petition stands allowed to the extent indicated above. No order as to costs.