
(2020) 10 CAT CK 0006

In the Central Administrative Tribunal

Case No : Original Application No. 2612 Of 2019, Miscellaneous Application No. 2360 Of 2019

Ram Kishan Suhag

APPELLANT

Vs

State & Others

RESPONDENT

Date of Decision : 01-10-2020

Acts Referred:

Citation : (2020) 10 CAT CK 0006

Hon'ble Judges : L. Narasimha Reddy, J;Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : Hemant Kumar, Amit Anand

Final Decision : Dismissed

Judgement

Aradhana Johri, Member (A)

1. The applicant Sh. Ram Kishan Suhag Inspector (Exe) was Night Checking Inspector at PS Hari Nagar. On the intervening night of 31.01.2017 and 01.02.2017, the ACP Rajouri Garden during patrolling and night checking reached P.S Hari Nagar at 2.50 a.m. When he called the patrolling staff at the police station, only one patrolling motorcycle out of four reported and no other patrolling staff reported there. The applicant came in a Govt. Gypsy driving it himself without an official driver. It was said by the superior authorities that he could not give a satisfactory answer as to why he did not check all the patrolling staff every hour through Control Room, and used in-disciplined language. He was given a show cause notice of censure, which punishment was confirmed vide order of DCP West District dated 04.05.2017. The appeal of the applicant was dismissed by JCP Western Range on 01.06.2018.

2. This O.A has been filed with the plea to set aside the order of the disciplinary authority dated 04.05.2017 and of the appellate authority dated 01.06.2018. The applicant has claimed that he explained the absence of all the patrolling staff to the ACP. He has further contended that these orders being quasi judicial should

have been supported by reasons. Though he did not file his reply to the show cause notice or an appeal in the original O.A but these have been filed with the rejoinder at Annexure A and B. In the reply to the show cause notice thus filed, the applicant has stated that he did checking. He also stated that of the patrolling motorcycles one motorcycle got a puncture, the second motorcycle in-charge ASI Kailash Chandra had an outstation train at 4. a.m. therefore he quit his duty at 2 a.m. The third motorcycle in-charge ASI Subhash proceeded to Gurgaon for an investigation, while the fourth patrolling motorcycle ASI Omkar was deployed in emergency duty ad hoc. The fifth patrolling motorcycle in-charge HC Dharamveer reported at the Police Station when called by the ACP. He also stated that Driver Constable Narendra who was patrolling with him was allowed to quit night patrolling duty on the direction of SHO Hari Nagar. In his appeal he has more or less repeated the same points but also stated that the punishment order is highly vague. He has also made allegations of bad behavior on the part of the ACP.

3. The respondents have denied the claims of the applicant and justified the punishment orders. They have pointed out that as Night Checking Inspector his duty was to check the patrolling staff through control room every hour and he did not do so. Therefore all the explanations he is giving are not tenable. Further, they have stated that he was rude to the ACP and said to him "Aapko jo karna hai kar lo" which is highly objectionable and clearly shows indiscipline in a force which has to have disciplined. It has further been stated by the respondents that a Govt. Gypsy being driven by an Inspector himself, without a driver clearly shows that he was not ready for night patrolling and was not on duty. They have further justified the punishment orders.

4. Heard Mr. Hemant Kumar, learned counsel for the applicant and Mr. Amit Anand learned counsel for the respondents. We have also perused the material on file.

5. It is undisputed that of the patrolling teams only one reported for duty therefore it was clear that there is a lapse. It is also admitted that the applicant was posted as Night Checking Inspector and it was his duty to check all the patrolling staff through control room every hour. It is clear that the applicant did not do so. As far as the absence of the various patrolling teams is concerned, it cannot also be justified when one of the ASIs had to proceed to Gurgaon for investigation that he would have left the night before, specially when he was assigned night patrolling duty, he should have proceeded in the morning after his duty was over. So too, one ASI had a train at 4 a.m. and quit patrolling at 2 a.m, which is also not justified since the concerned ASI had been assigned patrolling duty. Without going into the details of each of the patrolling teams it was observed that the net result was that of all patrolling teams only one motorcycle was actually patrolling, due to which the law and order could certainly have been impacted. Furthermore, when an Inspector rank officer has night patrolling / checking duty it is just impossible that he would not be assigned a driver for his

official vehicle. Therefore a statement that the driver was allowed to go on leave by the SHO, which has also not been verified or corroborated anywhere by the SHO cannot be accepted and appears to be an unfounded afterthought. From this circumstance it appears that the applicant was not prepared for night patrolling duty at all, nor did he check the patrolling staff through control room every hour.

6. From the tenor of the allegations made against the ACP by the Inspector in his appeal, it is very clear that he does not subscribe to the discipline of a uniformed force. When a lapse is caught, retorting to his superior officer "Apko jo karna hai karlo" is definitely a breach of discipline.

7. The order of the Disciplinary Authority dated 04.05.2017 is a speaking order and takes note of the written reply of the applicant and addresses the issues raised in it. So, too, the order of the Appellate Authority dated 01.06.2018 duly considers the submissions of the applicant. It also records the fact that the applicant was given an oral hearing before the order of censure was passed. This order also is a speaking order and has been passed after due application of mind.

8. In light of the above, misconduct is clearly made out on the part of the applicant, for which he has been awarded censure, through speaking order, after giving him due opportunity, including a personal hearing. The O.A has no merit and is dismissed. No order as to costs.