
(2008) 01 CAL CK 0008
In the Calcutta High Court
Case No : W.P.S.T. No. 717 of 2006

Sanatan Burman

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 18-01-2008

Acts Referred:

Citation : (2008) 116 FLR 1118

Hon'ble Judges : Partha Sakha Datta, J;K.J. Sengupta, J

Bench : Division Bench

Advocate : Chandra Sekhar Bag, for the Appellant;

Judgement

K.J. Sengupta and Partha Sakha Datta, JJ.—No one has appeared on behalf of State. This matter is heard with the able assistance of Mr. Bag.

2. This application is directed against the judgment and order of the learned State Administrative Tribunal (hereinafter referred to as the Tribunal) dated 8th, August, 2006, whereby and whereunder the applicant's challenge against the order of punishment of dismissal as well as the disciplinary proceeding have been upheld.

3. The fact of the case is that the applicant was a Police Constable and he was charge sheeted with the charges, summary of which is set out hereunder:

4. The applicant was summoned for attending night patrol duty and he did not turn up although other police personnel did. When again he was called, he turned up wearing a Pajama only keeping other portion of the body bare. Then the applicant was asked to come back in uniform. Subsequently, he turned up in uniform, but in a drunken state and when he was asked, he started abusing the superior officers with filthy languages, including the Officer-in-charge of the concerned police station and he also hurt one of the A.S.I.

5. Taking altogether the aforesaid incidents, a disciplinary proceeding was started with the issuance of charge-sheet. The applicant replied to the charge-sheet

denying the allegations, taking an alibi that he was not in a drunken state and he was rather beaten up and he has sustained injury and he was confined to a nursing home and treated there and this fact will be evident from the discharge certificate issued by the doctor. It is the further case of the applicant that without having proper medical examination, he was charge-sheeted and the Enquiry Officer found that he was in. drunken condition. It is also the case of the applicant that he was not examined medically to assess the extent and quantum of liquor contents in his blood.

6. It is an admitted position that the applicant was given all the opportunities of being heard. As many as twelve witnesses were called by the department to prove the alleged charges whereas the applicant produced none. He did not produce any material evidence.

7. We have checked the report of the Enquiry Officer and he has come to a fact finding on the basis of evidence and there is no challenge against the fact finding of the Enquiry Officer as being absurd or baseless. There is also no allegation that the same is based on no evidence. Thereafter, the disciplinary authority had applied its mind to the report of the Enquiry Officer and had not" only agreed with the same but also examined the materials. With detailed reasons, he proposed to impose the dismissal order. So, a second opportunity was given. After considering the reply to the second show cause notice, the disciplinary authority on fact finding and accepting everything, imposed the order of dismissal.

8. Departmental appeal was preferred by the applicant and the same was dealt with in accordance with law with detailed reasons. We have gone through the order of the appellate authority and do not find any flaw or fault in the same, upon careful reading. No specific challenge has been made against the order of the appellate authority.

9. Learned Tribunal has taken note of all details. The learned Tribunal, following the established norms and principles applicable in case of judicial review, has examined this case and rightly came to the conclusion that there is nothing to interfere with.

10. We agree with the findings of the learned Tribunal that when the other charges are proved, the alibi of not being in drunken state, though not proved hardly stands in the way. The plea of taking or consuming homoeopathy medicine is simply unbelievable as there is no evidence and only mere statement was made. Even if the allegation of consumption of alcoholic drink is ruled out, still other charges viz not turning up. in duty in time or without uniform and abusing with filthy language and beating superior officers, are good enough to maintain the charges, as well as the punishment imposed.

11. We cannot substitute our own reasoning and finding or for that matter, wisdom against the finding of the learned Tribunal to revoke the order of punishment. However, we clarify that the order of dismissal will not disqualify the

applicant from taking any further employment either in public sector or private sector. Consequent upon dismissal, all the terminal benefits shall be released forthwith.

12. This application is, thus, disposed of. There will be no order as to costs.