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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment Dated: 21st July, 2016**

+ W.P.(C) 5647/2006

RAI SINGH DABAS

..... Petitioner

Through: Mr.Manish Batra, Advocate.
versus

COMMISSIONER OF POLICE AND ANR.

..... Respondents

Through: Mr.Naushad Ahmed Khan, Addl.
Standing Counsel (Civil), GNCTD with
Ms.Neelam Kholiya and Ms.Astha
Nigam, Advocates.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE I.S.MEHTA

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order passed by the Central Administrative Tribunal dated 1st June, 2005 by which the O.A. filed by the petitioner assailing the order of the Disciplinary Authority by which the penalty of removal from service was imposed upon him, was dismissed. Challenge was also laid by the petitioner before the CAT to the order passed by the Commissioner of Police, by which his appeal was dismissed on 24th July, 2003.

2. Learned counsel for the petitioner submits at the outset that the petitioner is more than 72 years of age, suffering from paralysis and is bed ridden. He further submits that the petitioner belongs to rural background and he has no means of any financial support. He has further highlighted that the petitioner has rendered 34 years of service; initially he had joined the Boarder Security Force

as a Constable in January, 1970 and he was absorbed in Delhi Police in 1986. He submits that the petitioner does not assail the order on merits, but only on the limited ground that the punishment awarded by the Disciplinary Authority is not commensurate with the charge which was framed against him.

3. In this case, the following charge was framed against the petitioner:

“ I. Dr. P.S. Bhushan, the Enquiry Officer, hereby charge you, Insprt. (Min.) Rai Singh Dabas, No.D-1/35 (under suspension) (PIS No.28860003) that on 01.08.2001 at 1.34 a.m. an information was received at Police Control Room that one Inspr. has been beating Constables at Narain Dharam Kanta, Najafgarh Road, near Nilothi Morh. In response to the call, PCR Van P-65 reached the spot. SI Singhasan Singh (T-29), SI Rajbir Singh, I/C P.O. Nihal Vihar and SHO/PS Nangloi also reached the spot and found you, Inspr. Rai Singh Dabas, No.D-1/35 as well as Const. Bal Kishan No.1842/PCR and Const. Dheer Singh No.3351/PCR alongwith the Govt. Motor Cycle No.DL-1S L-9079, blue colour. On the spot, you were found quarrelling with the Consts. Bal Kishan No.1842/PCR and Dheer Singh No.3351/PCR. As per direction of SHO/PS Nagloi, SI Rajbir Singh, I/C P.P. Nihal Vihar took you and both the Constables in PCR Van P-65 to Sanjay Gandhi Memorial Hospital for medical examination. You, Inspr. R.S. Dabas were medically examined and the Doctor opined “smell of alcohol present”, and you refused to put thumb impression on M.L.C No.D/20. The Doctor opined no fresh injury to Const. Dheer Singh. Const. Bal Kishan was referred for E.N.T. opinion. Shri S.R. Meena, ACP/West Zone/PCR also conducted a preliminary inquiry, which revealed that you, Inspr. Rai Singh Dabas alongwith rider Const. Dheer Singh reached at Yadav Sweet Corner, Rampura crossing on Govt. Motor Cycle No.DL-1S L-9079 after closing the office. You, Inspr. Rai Singh Dabas had consumed liquor at Yadav Sweet Corner, Rampura crossing. You had also sent Const. Bal Kishan for your private work at Dharu Hera during daytime in connection with seized engine of your private Bus No.DL-1P-A-2301. At about 10 p.m., Const. Bal Kishan informed you from Dhaula Kuan on mobile phone No.9810101457 about the progress of the work of your private bus. You, Inspr. Rai Singh Dabas had given direction to Const. Bal Kishan to report at Yadav Sweet Corner, Ram Pura crossing, Rohtak Road. After that you alongwith both the Constables left for your residence in Najafgarh on the said Govt. Motor Cycle. On the way near Nilothi Morh, Rishal Garden, you Inspr. Rai Singh Dabas all of a sudden, started quarrelling and beating both the Constables under the influence of liquor. Both the Constables had reported the matter to

Police Control Room on Telephone No.100 from nearby Narain Dharam Kanta, but they did not disclose their names. For this misconduct, you, Inspr. Rai Singh Dabas were placed under suspension vide office order No.1318-48/P.Sec. Addl. CP/P &C, dated 01.08.2001.

The above act on the part of you, Inspr. Rai Singh Dabas, No.D-1/35 amounts to gross misconduct and misuse of official power & machinery, which renders you liable for punishment under the provisions of the Delhi Police (Punishment & Appeal) Rules, 1980.”

4. Pursuant to the framing of charge, an Inquiry Officer was appointed and finally agreeing with the report of the Inquiry Officer the Disciplinary Authority awarded the punishment of removal of service which was confirmed in appeal.

5. Mr.Naushad Ahmed Khan, learned Addl. Standing Counsel appearing for the respondents submits that the petitioner belonged to a disciplined force, yet he acted in a manner unbecoming of an officer of Delhi Police, resultantly Articles of Charge were framed and inquiry was held and proved against him and also there is a concurrent finding by the Disciplinary Authority.

6. We have heard the counsel for the parties.

6. While we are conscious that the scope for judicial interference, more particularly in the matter of punishment is rather narrow, however, since the only submission which has been raised before us and having regard to the present state of the petitioner and the length of service rendered by the petitioner, we grant leave to the petitioner, as prayed, to make a representation to the Commissioner of Police to consider his case sympathetically. We request the Commissioner of Police to consider the representation of the petitioner, as and when filed, sympathetically only on the quantum of punishment alone, keeping in view the length of service rendered by the petitioner and also the age and present medical condition of the petitioner. The said representation of the petitioner shall be decided by the Commissioner of Police within a period of four weeks from the date of receipt of the same. A copy of this order shall be

annexed by the petitioner along with his representation.

7. The writ petition is disposed of in the above terms.

G.S.SISTANI
(JUDGE)

I.S. MEHTA
(JUDGE)

JULY 21, 2016
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