$~33.

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

\+ **Date of Decision:11.02.2019**

% W.P.(C) 1382/2019

SH. RAJBIR SINGH ..... Petitioner

Through: Mr. T.D. Yadav, Adv.

versus

GOVT. OF NCT OF DELHI AND ORS. ..... Respondent

Through: Mrs. Avnish Ahlawat, Standing Counsel for GNCTD with Mr. N. K Singh, Advs.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE A.K. CHAWLA

VIPIN SANGHI, J. (ORAL)

1. The petitioner has preferred the present writ petition to assail the order dated 01.08.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi, (the Tribunal) in O.A. No. 4102/2012. The Tribunal has rejected the said Original Application preferred by the petitioner wherein he had assailed the charge memo dated 11.08.2004 issued to him, the Inquiry Report dated 25.03.2008, and the orders dated 10.10.2011and 15.10.2012 passed by the Disciplinary Authority and the Appellate Authority, subjecting him to punishment on account of the proven misconduct.

2. The petitioner was charged vide memorandum dated 11.08.2004 as follows:

> *" Article-I*
>
> *Sh. Rajbir Singh, UDC/Gr.III, while posted as Sub Inspector in the Country Liquour (L-9) Bonded Ware-house of M/s.Som Distilleries,51 Rama Road, New Delhi inbonded the consignment, having validity as per I.Ps upto 31.05.2004, 7.6.2004 and 15.6.2004 on 1.6.2004, 8.6.04 and 16.6.2004 without permission from the Competent Authority as required under the Provision of Punjab Excise Act, 1914.*
>
> *Sh. Rajbir Singh, UDC/ Gr. III, while working in above capacity misreported the stock position of the Bonded Ware-House vide his report for the period 16.5.04 to 31.5.04, 1.6.04 to 7.6.04 and 1.6.04 to 15.6.04 as 4400 cases, 2400 cases and 3162cases under Clause 21 of terms and conditions of Country Liquor supply for the year 2004-05 whereas the actual report for the relevant period was 15200 cases, 10674 cases and 10400 cases respectively, thereby causing loss of excise revenue which would have occurred on account of penalty on the licensee.*
>
> *Sh. Rajbir Singh, UDC/ Gr. III, has therefore, not only violated the instructions/ rules of Punjab Excise Act 1914- but also failed to maintain devotion to duty and acted in a manner unbecoming of Govt. Servant which is violative of the Rule 3(1)(ii)(iii) of CCS)(Conduct)Rules, 1964"*

3. After a detailed inquiry, the Inquiry Officer rendered his detailed Inquiry Report dated 25.03.2008, running into 13 pages, considering each and every aspect of the matter and holding the petitioner guilty of the

aforesaid charge/ misconduct. After duly complying with the procedure, the Disciplinary Authority passed a reasoned order dated 10.10.2011 – subjecting the petitioner to the reduction of 2 increments in the time scale of pay for a period of 2 years with the further direction that the Government Servant will not earn increments of time during the period of such reduction and on the expiry of such period, the reduction will have the effect of postponing the future increments of his pay.

4. The petitioner's appeal was dismissed by the Appellate Authority vide order dated 15.10.2012. The Tribunal has not found merit in the petitioner's Original Application and, consequently, the same has been rejected.

5. The first submission of learned counsel for the petitioner is that the article of charge framed against him is not true. He submits that, as a matter of fact, he had informed the concerned authorities with regard to the number of cases of Country Liquor that were inbounded.

6. We cannot get into appreciation of evidence in these proceedings, under Article 226 of the Constitution of India. The petitioner has, however, insisted on reading out the alleged communications issued by him. We find that the Inquiry Officer has exhaustively dealt with this submission of the petitioner as follows:

> *"The CO has tried to defend himself against the charge of misreporting on the plea that he had inbonded some cases with permission but all these were included in the details of cases of country liquor not supplied. He has given a bifurcation of the cases received late with permission and that not received but*

has failed to substantiate his claim with any supporting documents.

On the other hand, the case of the prosecution is supported by the Note dated 7.7.2004 (S-12)of Sh. Rajesh Kumar, the then DEO (IMFL)(PW-1)addressed to DC (E) after checking the documents of L-9 licence of M/s Som Distillery (P)Ltd. after the inspection dated 20.6.2004, wherein he has clearly mentioned that there were consignments which were delayed and no specific permission was obtained for inbonding. Secondly, the number of cases of short supply as defined in Clause 21 of Terms and Conditions of L-9 Licence was not adhered to in all those periods (referred to in the Charge Sheet also). The number of cases reported was less than the actual number of cases.

His contention has been countered by the PO also in his written brief stating that no documentary evidence of written intimation dt. 1.6.04 has been produced by the CO. This argument on the part of the PO is also supported by the additional document (DD-2,3 & 4)provided by GM (Excise)i.e. Copy of UO no. 45 dt. 19.5.06 clearly stating that the CO had not made any correspondence regarding revalidation of permits which are part of enquiry, as per record available in the branch. This fact is supported by the photocopy of letter dt. 4.7.05 of Sh. R.N. Tyagi, Excise Inspector posted at the Som Distilleries (P)Ltd. , 51 Rama Road, New Delhi furnished by GM (Excise)vide UO no. F.1/Ex/CL/2005/581 dt. 29.9.05 as additional document (marked as DD-2&3) wherein it has been also confirmed that no letter for seeking permission to take delivery of the goods which reached after the expiry of the date of validity of IPs was available at the bonded ware house."

7. Thus, the Enquiry Officer has dealt with the factual stand of the petitioner and rejected his defence upon appreciation of evidence. These

findings are not open to scrutiny in these proceedings as it is not a case of perversity in the matter of appreciation of evidence, or a case with no evidence.

8. The next submission of learned counsel for the petitioner is that the Appellate Authority has not passed a reasoned order while examining the petitioner's departmental appeal.

9. We do not find any merit in this submission as well. A perusal of the appellate order shows that the Appellate Authority has applied its mind before rejecting the petitioner's appeal. When the Inquiry Report and the order passed by the Disciplinary Authority are detailed and reasoned, since the Appellate Authority was agreeing with the findings returned against the petitioner and the penalty imposed upon him, it was not obligatory for the Appellate Authority to again pass a detailed order dealing with each and every submission of the petitioner, as if it is passing the Original Order.

10. We, therefore, find absolutely no merit in this petition.

11. Dismissed.

VIPIN SANGHI, J.

A.K. CHAWLA, J.

FEBRUARY 11, 2019
N.Khanna