

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.6510 OF 2009
(@Special Leave Petition (C)No.12018 of 2006)

MUNNA LAL

... APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

... RESPONDENT(S)

O R D E R

Leave granted.

Heard both sides.

The appellant was a Sub-Inspector of Police working in the Indira Gandhi International Airport, New Delhi. Disciplinary proceedings were initiated against him in the year 2005 alleging that the appellant was found in a drunken condition while on shift duty from 0700 hrs. to 1300 hrs. at the Indian Airlines Cargo gate. The immediate superior officer of the appellant, on reaching the office, felt smell of alcohol and suspected that the appellant must have been in a drunken condition. The Assistant Commandant ordered to take the appellant to the airport dispensary for medical check-up. The doctor on duty examined him and stated that the appellant was conscious though incoherent in speech, his pupil were equal and normal, his pulse and B.P. was normal and there was an element of doubt about alcohol and suspicion of mild smell of alcohol and for confirmation he was referred to Safdarjang Hospital for further medical check up. The appellant contended that on that day, he was ill and was taking medicines and this must have caused the smell of alcohol. An inquiry was conducted and the Inquiry Officer relied

on the incomplete report of the doctor who examined the appellant and held that the appellant's case was a confirmed case of intoxication and reliance was also placed on the three witnesses, who were examined in the inquiry.

Learned counsel for the appellant contended that there was no medical evidence to prove that the appellant was drunken on that day and he was alcoholic and he was also not taken to Safdarjang Hospital as suggested by the duty doctor on panel at the Airport. The appellant also contended that reliance could not have been placed on the oral evidence given by the witnesses. Learned counsel appearing for the respondent submitted that the appellant was found of dereliction of duty previously also and there were other disciplinary proceedings against the conduct of the appellant. But in the instant case it was not proved that the appellant was drunk on the day when he was on duty. Evidence was not satisfactory to prove that he was found with any alcohol and he was also not taken to Safdarjang Hospital as suggested by the first doctor. In the absence of positive evidence, we are of the view that the charge levelled against the appellant was not proved satisfactorily. In the absence of sufficient proof, the disciplinary authority should not have imposed such penalty. Therefore, the punishment imposed was illegal and the appellant is entitled to be reinstated in service and he is entitled to get 50% of the back-wages for the period he was out of service. The respondents are directed to reinstate the appellant in service forthwith. The appellant's service during this period would be treated for other service benefits such as seniority, increment and pension.

The appeal is disposed of accordingly. No costs.

.....CJI
(K.G. BALAKRISHNAN)

.....J.
(P. SATHASIVAM)

.....J.
(Dr. B.S. CHAUHAN)

NEW DELHI;
29TH SEPTEMBER, 2009

SUPREME COURT OF INDIA



JUDGMENT