

Hari Krishan Vashishtha

Vs

Government of U. P. and Others

Civil Appeal No. 741 of 1991

(L. M. Sharma, B. C. Ray, J. S. Verma JJ)

15.02.1991

JUDGMENT

SHARMA, J. –

1. The petitioner, who is a Sub-Inspector of Police, was, in 1983, the Station Officer of Police Station, Bah district Agra. On November 15, 1983, in a surprise raid, a bus was found to be operating without obtaining a valid licence. The petitioner was prima facie considered responsible for permitting the illegal service, and a show cause notice was served on him. Ultimately an order was passed on June 14, 1984 withholding the integrity certificate of the petitioner. The departmental appeal and later a revision application filed by the petitioner were dismissed. After unsuccessfully moving the U.P. Public Services Tribunal, the petitioner filed a writ application in the Allahabad High Court which was dismissed by the impugned order.
2. Heard the learned counsel for the parties. Special leave is granted.
3. According to the case of the appellant, he was not guilty of dereliction of duty as on the relevant date he was made in charge of a big mela held at Bateshwar, a place about 8 km. from Bah. He, therefore, could not remain at Bah to check the illegal plying of the bus. After the dismissal of his petition by the U. P. Public Services Tribunal, he filed a petition for review seeking leave to produce certain documents maintained in the department which established his defence. The Tribunal observed that the documents belatedly offered in evidence did show that the appellant was not working as Station Officer at Police Station Bah on the material date and some other officer was in charge, but refused to review its earlier judgment on the ground that the aforesaid document should have been produced when the main case was being heard.
4. The learned counsel for the respondent-State has contended that the ground of defence which is now being pressed on behalf of the appellant is an afterthought and should be rejected as the same was not taken in his show cause. He, however, fairly stated that the entire matter may be examined on merits and may be decided finally by this Court at this stage without remanding the case. We have accordingly heard the learned counsel for the parties at some length.
5. We have examined the appellant's show cause and find ourselves in a position not to accept the respondent's contention that the explanation of the appellant as mentioned above was not taken therein. As it appears from the 4th page of the said show cause (page 51 of the paper book), the appellant had mentioned his main defence and had also stated the distance between Bah and Bateshwar as 8 km. It is true that he had taken several other defences also, but that does not detract from his case of being deputed at Bateshwar. The two documents on which reliance was placed by

the appellant before the State Tribunal during the pendency of the review petition appear to be very material. The first document shows that the appellant had handed over the charge of Bah Police Station to another officer Sri S.P. Singh on November 7, 1983 and took over the charge on November 26, 1983. These documents are part of the departmental records and it is not suggested that they are undependable. The duty chart (Annexure 3, page 39 of the paper book), showing the appellant as 'in charge' of the mela at Bateshwar, is another supporting document, and so is the relevant order regarding the police arrangement in the mela at Bateshwar (Annexure 1, page 34 of the paper book). The mela which is held on the 'Full Moon Day' of the month of Kartik is a very big one and the duties assigned to the appellant clearly show that, while on duty at the mela, he could not be expected to look after the work at Bah Police Station. In the circumstances, the appellant cannot be held to be responsible for the illegal plying of the bus at Bah.

6. It has been contended by the learned counsel for the appellant that withholding of the integrity certificate has seriously prejudiced the appellant inasmuch as he cannot get the promotion which is due to him. The service of the appellant appears to have been good as evidenced by his records. The order of punishment is, therefore, fit to be recalled. We accordingly allow the appeal, set aside the impugned order of the High Court and the two judgments of U.P. Public Services Tribunal, and quash the orders departmentally passed against the appellant. There will be no order as to costs.

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