

**HIGH COURT OF JAMAMU AND KASHMIR
AT JAMMU
SWP No. 1753/07**

Chattar Singh Vs. Union of India and Ors.

Coram:

The Hon'ble Mr. Justice Sunil Hali

Appearing counsel :

For the petitioner(s) : Mr. B.S. Slathia, Adv.

For the respondents(s): Mr. V.K. Magoo, ASGI

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| i) | Whether to be reported in
Press/Journal/Media | Yes/No. |
| ii) | Whether to be reported
in Digest/Journal | Yes/No. |
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While performing his duty as driver, the petitioner was found in an inebriated state by the Police Station, Ram Munshi Bagh, Srinagar on 13-8-2005. Petitioner was arrested by the police and subjected to medical check up. He was declared alcoholic positive. A challan was produced against him on 16-8-2005 before the Chief Judicial Magistrate, Srinagar. Petitioner pleaded guilty before the court and accordingly he was fined Rs. 100/- by the trial court.

In pursuance to this, the respondents initiated enquiry against the petitioner under rule 14 of CCS (CCA) Rules, 1965. Articles of charge were framed against the petitioner. He was placed under suspension. The Inquiry Officer was appointed to inquire into the charge levelled against the petitioner. The

petitioner admitted the charge. After his admission, order dated 14-8-2007 was passed in which it was ordered that the petitioner be discharged from service.

The petitioner filed an appeal against the order dated 14-8-2007 before the appellate authority. The same was dismissed. The only ground on which the petitioner has come up in this petition is that the punishment imposed, is not commensurate to the alleged act of misconduct. The order impugned clearly reveals that the petitioner had admitted his charge but prayed for lenient punishment on the ground that this was his first lapse in the service. Petitioner has further pleaded that the reason for recording his admission to the charge was that he had assured lenient punishment. The petitioner belongs to a disciplined force and he was found to be drunk when he was performing his official duty. He stood convicted by the Chief Judicial Magistrate, Srinagar. The reasons recorded by the Disciplinary Authority and the Appellate Authority clearly mention that the gravity of misconduct /charges were of grave in nature, which require no leniency. There is no dispute that the court can intervene in the matter where the punishment is disproportionate to the charge levelled against the person. But in disciplined forces like Army and Police, no leniency can be shown in the

matter where the official is found drunk while performing his official duty. I fortify my view by the judgment of the Apex Court in case titled Union of India and Others Vs. R.K. Sharma, reported as AIR 2001 Supreme Court 3053, in which the Apex Court held that:

“ Once an army personnel is found to be guilty of the charges made against him it is not open for the Court to interfere with the sentence awarded by the Court Martial. The awarding of sentence is within the powers of the Court Martial. These are not matters in which Court should interfere. While exercising powers under Articles 226 or 227 and/or under Article 32 , the Court cannot interfere with the punishment merely because it considers the punishment to be disproportionate . It is only in extreme cases, which on their face show perversity or irrationality that there can be judicial review. Merely on compassionate grounds a Court should not interfere.”

I therefore, find no force in this petition, which is dismissed alongwith connected CMP. However, the petitioner may make representation to the respondents to re- consider the matter and if any such representation is made, respondents may pass any appropriate order within three weeks thereafter.

(Sunil Hali)
Judge

Jammu: 31-7-2009
RSB,Secy.