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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1801/2002

This the 10th day of January, 2003

HON'BLE SH. V.K. MAJOTRA, MEMBER (A)
HON'BLE SH. KULDIP SINGH, MEMBER (J)

Harphool Singh
(PIS No. 28941330)
R/o RZ-F1/6C, Gali No. 1,
Mahavir Enclave, Palam,
New Delhi-45.

Presently posted at
3rd Bn. DAP,
Vikas Puri, New Delhi.

(By Advocate: Sh. Anil Singhal)

Versus

1. Commissioner of Police,
Police Head Quarters,
IP Estate, New Delhi.
2. Joint Commissioner of Police,
Traffic PHQ,
IP Esstate, New Delhi.
3. DCP (Traffic NDR),
Police Head Quarters,
IP Estate, New Delhi.

(By Advocate: Sh. Ashwani Bhardwaj proxy for
Sh. Rajan Sharma)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Heard counsel for the parties.

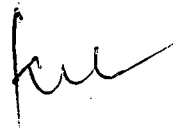
2. Applicant has impugned in this OA the punishment order passed by the disciplinary authority vide which he was punished and his one year approved service is forfeited from the stage of Rs.3425/- p.m. to Rs.3350/- in time scale of pay for a period of one year with immediate effect. He will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will not have the effect of postponing his future increments of pay. Applicant had also preferred an appeal which was disposed of vide order Annexure A-5 and the appeal was rejected. While impugning

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these orders applicant had taken several grounds but one of the ground is that during the enquiry, the enquiry officer has not found the applicant guilty whereas the disciplinary authority disagreeing with the enquiry officer recorded his dissenting note but while issuing show cause notice Annexure A-3 the disciplinary authority had already given up his mind as he was bound to punish the applicant where the disciplinary authority had recorded as under:-

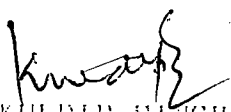
"In view of above facts I do not agree with the findings of EO. After careful examination of all the facts and relevant records on DE file, I find that the guilt of defaulter constables are proved. (emphasis supplied).

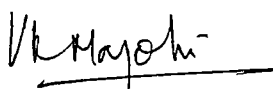
3. Learned counsel for the applicant relying upon this para submits that the reading of this para show that the disciplinary authority has already made up his mind that applicants are guilty and charges against them stands proved without calling the charged officials to give a valid explanation to the dissent note as to why they should not be held guilty. On this ground punishment so far is stated to be bad of law. Besides that it is also submitted that by order of punishment, as the punishment awarded to the applicant is concerned that is a double punishment and it is also hit by judgment of Hon'ble High Court in Shakti Singh vs. Union of India where such type of punishment is stated to be not in accordance with Delhi Police (Punishment & Appeal) Rules; on that ground also punishment awarded to the applicant cannot stand. Hence, it is submitted that impugned orders cannot be sustained. Sh. Bhardwaj submits that since the applicant had not taken any ground in appeal with regard to the dissent note recorded by the disciplinary authority, so this plea is not available to the applicant at this stage.



4. However, in our view the plea taken by the respondent has no merits because disciplinary authority while dealing with case acts as quasi judicial authority and were supposed to observe the law on the subject. The disciplinary authority was supposed to give proper opportunity to charged officers and should have called upon them to give explanation to dissent note before holding him guilty. So this ground taken by the respondents has no merit because the disciplinary authority was legally duty bound to follow the rules and cannot escape the legal responsibility.

5. Since on the ground above, the impugned order cannot be sustained and is liable to be quashed. Accordingly, we hereby quash the same and remand back the case to disciplinary authority to give an opportunity to charged officer to give his explanation and then to proceed from the stage afresh. No costs


(KULDIP SINGH)
Member (J)


(V.K. MAJOTRA)
Member (A)

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