

9
Central Administrative Tribunal, Principal Bench

Original Application No. 2479 of 2002

New Delhi, this the 28th day of May, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. Govindan S. Tampi, Member (A)

HC Umrao Singh
No. 212/PCR Now 9135/DAP
S/o Shri Kanhaiya Lal Sharma
r/o M.C.F.-76, Gali No.3
Mahavir Colony, Ballabgarh,
Distt. Faridabad, Haryana

.... Applicant

(By Advocate: Shri Ashwini Bhardwaj)

Versus

1. Commissioner of Police,
Police Head Quarter
Indraprastha Estate,
New Delhi.

2. Addl. Commissioner of Police,
PCR & Communication
Police Head Quarter
Indraprastha Estate,
New Delhi.

3. Dy. Commissioner of Police,
Police Control Room
Police Head Quarter
Indraprastha Estate,
New Delhi.

.... Respondents

(By Advocate: Shri Ajay Gupta)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant is a Head Constable in Delhi Police. The disciplinary authority had framed the following charge against him:

"I, R.N. Relhan, Insp. Deployment PCR charge you HC Umrao Singh, No. 212/PCR (PIS No. 28800623) that while posted in South Zone/PCR you got issued the call book of PCR van E-10 (now E-31) for the period from 28.05.1999 to 10.07.1999 from HC Jagbir Singh, No. 1497/PCR of Record Branch, Mangol Puri, for producing the same in Vigilance Branch, PHQ, where local Police were facing an enquiry for not reaching at the spot in response to a PCR call regarding possession of shops and quarrel at Saurabh Vihar, Hari Nagar Extn., C-2, Jaitpur Road dated 09.07.1999. When call book was returned by you, HC Jagbir Singh, No. 1457/PCR of Record Branch noticed that you had made forged entries in the



call book by way of cuttings additions/over writings with a view to help the local police in respect of the call received at 1657 hrs. on 09.07.1999 for which he questioned you and whereupon you had misbehaved with him in the presence of the other staff. HC Jagbir Singh made a complaint against you in this regard which was got enquired through ACP/PACT and it was established that you had tampered with the record of the call book by showing the presence of the local police on the spot whereas Shri Ashok Kumar s/o Chander Sekhar Singh R/o A-450, Jaitpur Exth., Badarpur, New Delhi in his statement before Vigilance Branch, PHQ had stated that nobody from PS Badarpur had reached the spot. Cross checking of the records of E-1, E-2, E-4 and E-10 and the PCR call format also indicate that the record was tampered with.

The above act of misbehaviour and tampering with the official record on the part of you HC Umrao Singh, No.212/PCR amounts to gross misconduct and unbecoming of a police officer which renders you liable for punishment under the Delhi Police (Punishment & Appeal) Rules, 1980."

2. Acting on the report of the enquiry officer, the disciplinary authority inflicted a penalty on the applicant in the following words:

"I, Dr. M. Ponnaian, IPS, DCP/PCR, Delhi hereby order that the pay of HC Umrao Singh, No.212/PCR is reduced by two stages from Rs.4305/- to 4135/- in his time scale for a period of two years with immediate effect. It is further directed that he will not earn increments of his pay during the reduction and that on the expiry of this period, the reduction will have the effect of postponing his future increments of his pay."

3. The applicant preferred an appeal and the Additional Commissioner of Police reduced the penalty to that of reduction of pay by one stage for a period of one year without cumulative effect.

4. The applicant assails the findings of the disciplinary authority as well as of the appellate authority by virtue of the present application.

AG Ag

5. Learned counsel for the applicant, at the outset, urged that before initiation of disciplinary proceedings, the statement of the Articles of Imputation that was conveyed, clearly indicates that the disciplinary authority had a bias mind. In this regard, he particularly referred to paragraph 2 of the said imputation in which it has been mentioned:

"The above act on the part of HC Umrao Singh, No.212/PCR amounts to gross misconduct, negligence and tampered with the official record which is an act of unbecoming of a police officer for which he is liable to be dealt with departmentally under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980."

6. The settled principle in law is that the imputations have to be read as a whole and not one paragraph in isolation of the others. In the earlier paragraph, the applicant was informed of the basic allegation of the alleged misbehaviour or misconduct and thereupon acting upon the same, the disciplinary authority stated that this amounted to misconduct, negligence and tampering of the official record. It is not a finding arrived at to prompt us to conclude that the disciplinary authority had gone into the allegations with a pre-determined or bias mind.

7. As already pointed above with respect to the main allegation that the applicant had made certain over-writings in the record, the findings are favourable to him. Basically the applicant had been imposed the penalty for his alleged act of misbehaving with the Head Constable Jagbir Singh.

(Signature)

8. Learned counsel for the applicant contended that in fact the present matter is one in which there is no evidence on the record and therefore, this Tribunal should quash the impugned orders. He referred us to the statement of PW-6 Ashok Kumar in this regard. Indeed he states nothing against the applicant but that is not the entire material on the record. The statement of Head Constable Jagbir Singh, PW-1 and Head Constable Subhash, PW-2 does raise their voice against the act of the applicant namely misbehaviour in this regard.

9. It is true that if there was no material on the record or the findings are totally perverse, this Tribunal can interfere but in decisions arrived at in disciplinary proceedings, on propensity of probabilities findings can be arrived at. In the present case, as one peruses the statement of two witnesses i.e. Head Constable Jagbir Singh and Head Constable Subhash referred to above, it clearly indicates that there was material against the applicant to come to the conclusion referred to above. We, therefore, have no hesitation in rejecting the said submission.

10. As regards consideration of the defence witnesses of the applicant, the same indeed had been taken note of and conclusions had been arrived at. This Tribunal will not sit as a court of appeal to scrutinise the evidence to come to any other conclusion. The plea, therefore, has to

18 Ag

be rejected.

11. It was in that event urged vehemently that there is violation of Rule 16 (v) of Delhi Police (Punishment and Appeal) Rule, 1980 because the enquiry officer has put questions which are stated to be leading questions to the witnesses.

12. Whenever the same has to be examined, it has to be examined on the touch-stone of the facts of each case. The enquiry officer in Delhi Police (Punishment and Appeal) Rules does not have a Presenting Officer. Necessarily he has to put certain questions. He has to arrive at the truth. He is not a silent spectator. Therefore in this regard, if he has put certain questions, he cannot be blamed to vitiate the proceedings.

13. For these reasons, we find that the present application is without merit. It must fail and is dismissed.

(Govindan S. Tampli)
Member (A),

/dkm/

(V.S. Aggarwal)

Chairman.