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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2923/2002

New Delhi, this the 26th day of June, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)

ASI Ishwar Chand No.3886/D
A-2/76, Panchwati Tyagi
Loni Border, Ghaziabad, UP .. Applicant

(Shri Sachin Chauhan, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Home Affairs
North Block, New Delhi
2. Joint Commissioner of Police
New Delhi Range
IP Estate, New Delhi
3. Addl. Dy. Commissioner of Police
North East Dt. Shahdara, Delhi ... Respondents

(Smt. Sumedha Sharma, Advocate)

ORDER(oral)

Shri S.K. Naik

A departmental enquiry was initiated against the applicant Shri Ishwar Chand, ASI, while he was posted at Police Station, Mansarovar Park on the following charge:

"I, Inspector S.S. Kaushik, EO, DE Cell, Delhi charge you ASI Ishwar Chand Tyagi No.3886/D that while posted at PS, MS Park you registered a case vide FIR No.2/2001 dated 19.1.21 u/s 448/506/34 IPC, PS MS Park, Delhi while enquiring complaint of Smt. Urmila Devi, w/o Shri Rakesh Kumar, r/o A-1/126, Nand Nagari, against the owner of plot No.B-31, Gali No.6 Khasara No.165 village Chandrawali, New Modern Shahdara and arrested Sukhbir Singh, caretaker of the plot, Mahendera Singh and Jeet Singh without verifying the title of said plot by the area SDM.

You were also instrumental in handing over the forcible possession of the said plot to Smt. Urmila from its real owner Shri Arun Kumar after breaking open the lock of the premises, who was its owner since 1995 without any justification with ulterior motive."

Issued

The enquiry officer after taking into consideration all the facts, circumstances and evidence before him came to the conclusion that out of three components in the charge-sheet, the charge that he registered a case vide FIR No.2/20001, PS, MS Park against the owner of the plot and arrested Sukhbir Singh, Mahender Singh and Jeet Singh has not been proved. He further held that the charge that the applicant did not verify the title of the said plot by the area SDM has been substantiated and that the charge that the applicant was instrumental in handing over the forcible possession of the said plot to Smt. Urmila from its real owner by breaking open the lock of the premises has not been substantiated.

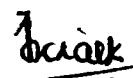
2. On consideration of the findings of EO, the competent disciplinary authority - in this case the Addl. Dy. Commissioner of Police, North East Dt. - awarded the punishment of withholding of the next increment of the applicant for a period of one year with cumulative effect. Aggrieved upon the punishment order of the competent authority, applicant filed an appeal before the Jt. Commissioner of Police, New Delhi Range, which was rejected.

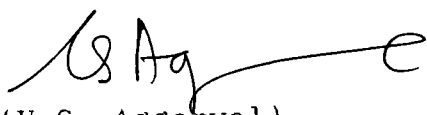
3. This is an application by the applicant for setting aside the order of punishment dated 24.5.2002 (Annexure A as also the order of the appellate authority dated 24.9.2002 and to restore to the applicant all the increments deducted from his salary with consequential benefits including pay and allowances, seniority and promotion.

for file

4. Learned counsel for the applicant in his submission has stated that the only ground on which the punishment has been awarded to the applicant relates to the finding of the EO that the applicant failed to verify the title of plot. By drawing our attention pointedly to the allegation against the applicant who got the FIR registered under Section 448/506/34 IPC, learned counsel has contended that verification of the title of the said plot had no relevance to the FIR lodged. Section 448 of IPC relates to house-trespass and 506 pertains to criminal intimidation. These were charges relating to the incident and circumstances of the situation and are in no way, not even remotely, connected with the title of the disputed plot. This plea, learned counsel contended, has not been appreciated by the disciplinary authority.

5. Learned counsel for respondent has not been able to effectively controvert the arguments advanced by the learned counsel for applicant that the question of verifying the title of the plot was not at all the issue while the FIR lodged pertains only to house trespass. Under the circumstances, we find that the question of title and its verification was not related to the charge against the applicant and therefore right from the stage of findings of the EO upto imposition of the punishment and rejection of appeal are not sustainable. It is a case of no material evidence. We accordingly set aside both the aforesaid orders of disciplinary authority and appellate authority. No costs.


(S.K. Naik)
Member(A)


(V.S. Aggarwal)
Chairman

/gtv/