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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.755/2002

New Delhi, dated 17th day of March, 2003

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

Ex. Constable Rajender Kumar

No.9606/DAP

11, Karamchari Colony, Near Telephone

Exchange, Kotputli, Dt. Jaipur

.. Applicant

(Shri Sachin Chauhan, Advocate)

versus

Union of India, through

1. Secretary

Ministry of Home Affairs

North Block, New Delhi

2. Commissioner of Police

Police Hqrs., MSO Building, New Delhi

3. Addl. Commissioner of Police

AP&T, New Police Lines

Kingsway Camp, Delhi

4. Dy. Commissioner of Police

8th Bn, DAP, PTS Malviya Nagar

New Delhi

.. Respondents

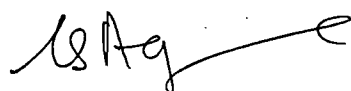
(Shri Harvir Singh, Advocate - not present)

ORDER(oral)

Shri Justice V.S. Aggarwal

The applicant was a constable in Delhi Police. Departmental enquiry against him was initiated on the allegation that while posted in 9th Bn. DAP, applicant had cheated one Shri Ravinder Singh, Munirka village of Rs.700/- along with another constable Raj Kumar and some unknown girl. After departmental enquiry was completed, the disciplinary authority, acting upon the enquiry report, dismissed the applicant. Appeal preferred by the applicant had also been dismissed.

2. During the course of submissions, applicant has drawn our attention to the fact that the appellate authority had taken into consideration certain extraneous factors while dismissing the appeal, namely the comments of the

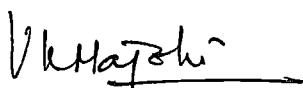


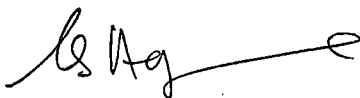
disciplinary authority relating to this aspect as in Para 3 of the order of the appellate authority, which reads as under:

"I have carefully gone through the appeal, comments, DE file and all the relevant record of the appellant, reveals that the first and second contentions of the appellant are not admitted. The disciplinary authority has discussed the contentions of the appellant in his representation to the findings of the E.O. There is no violation of Section 22 of the Delhi Police Act, 1976."

3. This Tribunal in different orders passed by it, namely Ct. Rampal Singh Vs. UOI in OA 1095/2001 decided on 11.2.2002 and Azad Singh Vs. UOI in OA 440/2002 decided on 27.2.2003, has been taking the view that while deciding any departmental action, extraneous matters should not be considered unless it can be concluded that no prejudice is caused. Appeal had to be decided in accordance with the rules. We are at a loss to understand as to why comments of the disciplinary authority had to be considered. Necessarily they were extraneous to the matter that has to be decided by the appellate authority.

4. Once this Tribunal has taken this view, the impugned order of appellate authority cannot be sustained. Resultantly, without expressing any other opinion on any other pleas of the applicant, we quash the impugned order passed by the appellate authority and remit the matter to the said authority to decide the appeal in accordance with law. OA is disposed of as aforesaid.


(V.K. Majotra)
Member(A)


(V.S. Aggarwal)
Chairman

/gtv/