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Central Administrative Tribunal, Principal Bench

Original Application No.1353 of 2002

New Delhi, this the 25th day of February, 2003

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

Ex. Constable Rajender Parsad No. 4974/DAP
Son of Shri Rameshwar Dayal,
R/o Vill - Mahtavas, Police Station Madan,
Distt. Alwar (Rajasthan)

.... Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. Union of India,
Through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi
2. Addl. Commissioner of Police,
Armed Police
New Police Lines,
Kingsway Camp,
Delhi
3. Deputy Commissioner of Police
5th Bn., DAP,
New Police Lines, Kingsway Camp.,
Delhi.

.... Respondents

(By Advocate: Shri Ashwini Bhardwaj, proxy for Shri Rajan Sharma)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant was a Constable in Delhi Police. Vide the order of 22.2.2001, he has been dismissed from service in pursuance of the departmental enquiry. The applicant preferred an appeal which was dismissed by the appellate authority on 7.9.2001.

2. By virtue of the present application, the applicant assails the said orders that have been passed.

3. Without venturing into the other controversies, learned counsel for the applicant has drawn our attention

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to the fact that the appellate authority has taken into consideration certain extraneous factors while deciding the appeal preferred by the applicant. Perusal of the order passed by the appellate authority clearly indicates that beside going through the grounds of appeal and file, the appellate authority has taken into consideration the comments purported to have been offered by the disciplinary authority.

4. At this stage, we can only briefly state that whenever the appellate authority has to decide the appeal, necessarily the material on record comprising of the proceedings i.e. the disciplinary authority and the grounds of appeal have to be taken into consideration. Any other factor considered, would be extraneous to the same which should not be taken into consideration because it gives the concerned aggrieved person a right to contend that he had no opportunity to answer what has been considered which is not a part of the record.

5. Identical is the position herein. Once certain comments which were not part of the record have been taken into consideration, it would be in the fitness of things, therefore, to quash the order passed by the appellate authority.

6. Resultantly, we quash the said order passed by the appellate authority and direct that a fresh order in

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accordance with law unmindful of what has been recorded,
may be so passed. O.A. is disposed of.

(Govindan S. Tampi)
Member (A)

(V.S. Aggarwal)
Chairman.

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