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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1364/2002

Monday, this the 31st day of March, 2003

Hon'ble Shri Kuldip Singh, Member (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Shri Sunil Jain
s/o Shri L.C.Jain
r/o 338/24, Gur Mandi
Sonipat (Haryana)
Presently posted at
P.S. Kotla Mubarakpur
South Distt., New Delhi

..Applicant
(By Advocate: Shri Neeraj Goyal)

Versus

1. Union of India
through Commissioner of Police
Police Headquarter,
IP Estate, New Delhi
2. Joint Commissioner of Police
Southern Range
Delhi Police Headquarters
I.P.Estate, New Delhi
3. Additional Deputy Commissioner of Police
South District, Hauz Khas
New Delhi

..Respondents
(By Advocate: Shri K.C.Nayak for Shri Ram Kanwar Dhillon)

O R D E R (ORAL)

Shri Govindan S. Tampi:

Heard S/Shri Neeraj Goyal and Shri K.C. Nayak, learned counsel for the applicant and the respondents respectively.

2. By this OA, order dated 30.12.2000 passed by the disciplinary authority and the appellate order dated 26.7.2001 are under challenge. The applicant, a Sub-Inspector from Delhi Police, was chargesheeted on the allegations that he along with another colleague had taken a lady and two respectable persons to the Police Station without valid reasons but ^{wik} to the malafide

intentions "to grab money from them". Following the DE proceedings, the applicant's representation was called for and after examination of the same, the disciplinary authority directed the reduction of his pay from Rs.6025/- PM to Rs.5000/- PM for a period of three years with further directions that he would not earn increments of pay during the period of penalty. In appeal, disciplinary authority's order was modified and the penalty was reduced for forfeiture of one year's approved service temporarily.

3. The applicant has, in his detailed pleadings, referred to a few infirmities which have made the order vitiated and liable to be set aside. He also indicated that the appellate order had taken into consideration the extraneous material also, while deciding the appeal. Shri K. C. Nayak appearing on behalf of the respondents stated that the charge against the applicant had been proved and, therefore, the decision taken by the respondents was correct and deserved to be endorsed.

4. We have considered the matter. While perusing the appellate order, we observe that the appellate order dated 26.7.2001 had considered the punishment order, the appeal, the comments offered by the disciplinary authority thereon and other relevant documents available on file. It is evident, therefore, that the appellate authority was influenced by material extraneous to what had been brought out in the summary of allegations, the inquiry report and in the disciplinary authority's order. The same is, therefore, vitiated and liable to be set

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(3)

aside. This had prejudiced his case, as brought out in the judgment rendered by Hon'ble Supreme Court in State of U.P. Vs. Harendra Arora & Anr. [(2001) 6 SCC 392], ^{3/} as the extraneous material on which the appellate authority placed his reliance had not been communicated to the charged officer (applicant) and thereby denied him the opportunity to defend himself.

5. In the above of the matter, OA succeeds and is accordingly allowed on a limited count. The impugned order dated 26.7.2001 passed by the appellate authority is quashed and set aside and the matter is remanded to the said authority for issuing a fresh order, confining himself only to the aspects brought on record, like the disciplinary authority's order, the applicant's representation, the facts in the relevant file, which formed part of the summary of allegations and the inquiry report. This exercise shall be done within a period of three months from the date of completion of pleadings. No costs.

(Govindan S. Tampi)
Member (A)

Kuldeep
(Kuldeep Singh)
Member (J)

/Sunil/