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Central Administrative Tribunal, Principal Bench

Original Application No. 2091 of 2002

New Delhi, this the 13th day of May, 2003

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

HC Satya Vir Singh
No. 376/E
R/o D-3/4, P.S. Defence Colony,
New Delhi

.... Applicant

(By Advocate: Shri M.L. Chawla)

Versus

1. Govt. of NCT through
The Chief Secretary
to the Govt. of NCT
New Secretariat,
Indraprastha Estate,
New Delhi

2. The Commissioner
Delhi Police,
Police Headquarters ITO,
New Delhi.

3. Joint Commissioner of Police,
New Delhi Range,
Delhi

4. Additional Deputy
Commissioner of Police,
East District Delhi
New Delhi.

.... Respondents

(By Advocate: Mrs. Jasmine Ahmed)

O R D E R (Oral)

By Justice V.S. Aggarwal, Chairman

Applicant is a Head Constable in Delhi Police. The summary of allegations alleged against the applicant pertained to the facts that daily diary No. 26-A was marked to Head Constable Suresh Pal. In pursuance thereto, he reached the spot where injured Paltu Mal Jain and Rajinder Jain were got medically examined. Their statements were recorded and First Information Report pertaining to offences punishable under Section 342/323/427/34 was registered. Shri Paltu Mal Jain came to the Police Station

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and informed the officer incharge that one Head Constable Satbir Singh had taken Rs.5,000/- from his son on 21.3.2000 and that he had stated that he was the Investigating Officer pertaining to the offences registered/quarrel and he would get all the matters settled.

2. This led to the departmental proceedings. At this stage, suffice to say that the enquiry officer had exonerated the applicant but the disciplinary authority recorded a note of disagreement which was conveyed to the applicant and thereafter, in accordance with the procedure, had imposed the following penalty:

"I thus think that penalty of withholding two increment temporary is sufficient to meet the ends of justice. I thus awarded this punishment. I also re-instated him with immediate effect. But the period of suspension w.e.f. 7.4.2000 vide DD No.32 dated 7.4.2000 is treated as not spent on duty so it can't be regularised in any manner. The pay of HC Satbir Singh, No.376/E is hereby reduced from Rs.4390/- to Rs.4220/- PM in the time scale of pay for a period of two years with immediate effect. He will not earn his increment of pay during this period and after the expiry of this period the reduction will not have the effect of postponing his future increment of pay."

The appeal has since been dismissed. Hence the present application.

3. Learned counsel for the applicant urged -

(a) that in the present case, there is no evidence against the applicant and therefore, the findings of the disciplinary as well as appellate authority are based on no material

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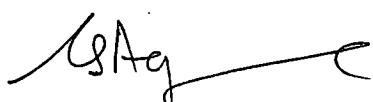
evidence against him; and

(b) the appellate authority had not applied its own independent mind but had dismissed the appeal in consultation with the disciplinary authority.

4. At this stage, we are dwelling into the second argument highlighted at the Bar.

5. The principle of law cannot be disputed that once the appeal which is prescribed in accordance with the rules/Act is filed, the appellate authority has to independently consider the merits of the same and come to a rightful conclusion. The disciplinary authority has already expressed itself. It is the order of the appellate authority which is under challenge. In that view of the matter, it is improper that the appellate authority should discuss the matter with the disciplinary authority. The appellate authority should consider the same and to the best of his judgement, decide the appeal. Seemingly it has not been done as is apparent from the tenor of the order because the appellate authority records "the evidence on DE file was discussed with the disciplinary authority."

6. Resultantly on this short ground, the order of the appellate authority cannot be sustained. We quash the same and direct that the appellate authority would in accordance with law re-consider and pass an appropriate

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order and convey to the applicant.

7. Keeping in view what has been recorded above, we are not expressing ourselves on the first argument of the learned counsel. O.A. is disposed of.

V.K. Majotra

(V.K. Majotra)
Member (A)

V.S. Aggarwal

(V.S. Aggarwal)
Chairman

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