

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.523/2002

Friday, this the 15th day of November, 2002

Hon'ble Shri Justice V.S.Aggarwal, Chairman
Hon'ble Shri A.P. Nagrath, Member (A)

Const. (Dvr.) Chander Pal
No.4629/PCR s/o Shri Ranjit Singh
Police Control Room, Delhi

..Applicant

(By Advocate: Shri Sama Singh)

Versus

1. Govt. of NCT of Delhi
through its Chief Secretary
Delhi Secretariat, New Delhi
2. Commissioner of Police
Delhi Police Headquarters
MSO Building, IP Estate
New Delhi-2
3. Adl. Commissioner of Police
PCR & Communication, Delhi
Delhi Police Headquarters,
MSO Building, IP Estate
New Delhi-2
4. Addl. Dy. Commissioner of Police
Delhi Police Control Room
MSO Building, IP Estate
New Delhi-2

..Respondents

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

O R D E R (ORAL)

Shri Justice V.S.Aggarwal:

The applicant is a Constable (Driver) in the Delhi Police. He made a complaint against Inspector Gurdeep Singh, Checking Officer of New Delhi Zone/PCR and I/C Van stating therein that after getting engine of the PCR Van overhauled from the work-shop on 5.5.1998, the mechanic advised him to drive the van upto the speed of 40 KM per hour. This was subject to a rider till it covered 1000 km. During that period, HC Sajjan Singh asked him to drive the van faster but the applicant refused. On this, I/C van got angry and threatened the

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applicant that he would be taught a lesson. On 7.5.1998 at 11.45 PM, when Inspector Gurdeep Singh was leaving after recording 'OK' in the Checking Register of PCR van, something was told to the Inspector and Inspector Gurdeep started abusing the applicant. He used unparliamentary language against the applicant.

2. A preliminary inquiry in this regard had been held and the assertions of the applicant had not been found to be correct, as mentioned in the complaint.

3. A charge-sheet was served to the applicant for having made a false complaint and the operative part of the same reads:-

"In order to find out the truth, the checking register of V-45 dt. 7.5.98 as well as separate comments of Insp. Gurdeep Singh were obtained. You Constable (Dvr.) Chander Pal No.4629/PCR were also heard in O.R. by Shri P. Dass, Addl. DCP/PCR on 31.7.98 but you could not give any satisfactory reply regarding your complaint.

From the comments of Insp. Gurdeep Singh and copy of Checking register dt. 7.5.98, it is clear that you Const. (Dvr.) Chander Pal No.4629/PCR have made complaint against the Sr. officer which you could not substantiate or prove. Besides you are an indisciplined type of person and is in the habit of making such complaints, even on earlier occasions. On 1.10.97 you made a complaint against Shri Kapoor Singh, the then ACP New Delhi Zone PCR for which you were warned to be more careful by the then Addl. DCP/PCR Delhi but even than you did not mend your such habits.

The above act on the part of you Const. (Dvr.) Chander Pal No.4629/PCR amounts to gross negligence, misconduct and violation of Rule 12 of Delhi Police (General conditions of Service) Rules, 1980 thereby, rendering you liable for departmental action under the provisions

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of Delhi police (Punishment & Appeal) Rules, 1980 to be punished under section 21 of Delhi Police Act, 1978."

4. On basis of the same, departmental proceedings had been initiated. In the departmental inquiry that ensued, the findings **returned** were adverse to the applicant. On consideration of the said findings, the Additional Deputy Commissioner of Police imposed the following punishments:-

"..... Hence, I, P.Dass, Addl. DCP/PCR hereby order to forfeit five years approved service of Const.(Dvr.) Chander Pal, No.4629/PCR with cumulative effect. Accordingly, the pay of Const.(Dvr.) Chander Pal, No.4629/PCR is hereby reduced by five stages from Rs.3725/-PM to Rs.3350/-PM for a period of five years in the time scale of pay. He will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will have the effect of postponing his future increments of pay."

5. The applicant preferred an appeal which has since been dismissed. Hence, the present application seeking quashing of the orders passed by the Additional Deputy Commissioner of Police and that of the appellate authority.

6. In the first instance, the learned counsel for applicant contended that the Additional Deputy Commissioner of Police had no authority to impose the punishment because it was not the disciplinary authority and it did not have the powers of the Deputy Commissioner of Police. The answer, in this regard, is provided by Rule 4 of the Delhi Police (Appointment & Recruitment) Rules, 1980. We reproduce the same for the sake of convenience:-

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"4. General. - (i) Appointing authorities - The following authorities shall be competent to make appointments to various subordinate ranks of Delhi Police:-

 Class of Police Authority to whom The extent of
 Officers the power of delegation
 appointment is
 delegated.

(i) Inspector	Addl.C.P.	Full powers subject to the rules framed hereunder
(ii) Sub-Inspr.	(i) DCP	Do
	(ii) Addl.DCP (iii) Principal /PTS	
	(iv) Any other officer of equivalent rank	
(iii) ASI	Do	Do
(iv) H.C.	Do	Do
(v) Constables	Do	Do"

7. Perusal of the aforesaid clearly shows that power of appointment has been delegated even to the Additional Deputy Commissioner of Police and other officers of equivalent rank. The applicant has not cared to challenge the validity of Rule 4 of the Delhi Police (Appointment & Recruitment) Rules, 1980. In such a situation, when the Rule is clear and the language is unambiguous, we find no reason to uphold the contention of the applicant.

8. Confronted with this position, the learned counsel urged that the complaint of the applicant had not been enquired into. He had drawn our attention in this

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regard to the fact that there was no material to come to a conclusion to the contrary. On facts, the said plea has to be rejected. Reasons are not far to fetch. Perusal of the record reveals that when the applicant had preferred the complaint, his replies had been called and it had been looked into. It was found that what has been alleged is not substantiated. It was a preliminary inquiry investigating into the nature of the assertions and truthfulness of the same. It could not be equated with the procedure of a departmental inquiry. Therefore, to urge that regular inquiry or anything equal to that should have been held, would be travesty of fact or even of justice.

9. The other limb of the argument was that even in the departmental inquiry, the charges had not been substantiated. On that count also, perusal of the record has its own version to state. We deem it necessary to mention that this Tribunal, while judicially reviewing the findings in this regard, will not sit as a court of appeal. If it is a case of no evidence or no reasonable man can come to a conclusion, only then, this Tribunal can proceed to do so.

10. What is the position herein? The perusal of the record of the inquiry officer shows that there was material on the record. It is the requirement of proof. In this matter, it is not of proof beyond all reasonable doubts. On propensity of probabilities in a departmental inquiry, findings can be arrived at. The present case stands on a higher footing, therefore, this plea as such necessarily is without any avail with the applicant.

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11. The last submission on that aspect is that the punishment awarded to the applicant tantamounts to double punishments. Our attention has been drawn towards the decision of the Delhi High Court in CWP No.2368/2000 - Shakti Singh Versus Union of India & Others, decided on 17.9.2002. Rule 8 of Delhi Police (Punishment & Appeal) Rules, 1980 came up for consideration before the Delhi High Court. In the cited case before the Delhi High Court, the punishment awarded was:-

"The charge levelled against Insp. Shakti Singh No.D-1/231 is fully proved..... Thus, the pay of Insp. Shakti Singh, No.D-1/231 is reduced by five stages from Rs.2525/- to Rs.2100/- in the time scale of pay for a period of five years. He will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will have the effect of postponing his future increments of pay."

12. Keeping in view the rigours of Rule 8 of the Delhi Police (Punishment & Appeal) Rules, 1980, the Delhi High Court held that it amounted to two punishments which could not have been awarded. We have already reproduced the punishment awarded to the applicant. Herein also, on parity of the reasoning, it must be held that there were two punishments that had been awarded. That is not permitted under Rule 8 of the Delhi Police (Punishment & Appeal) Rules, 1980. Therefore, on that count, the impugned orders are to be quashed.

13. For these reasons, subject to aforesaid, we allow the present application and quash the impugned orders. It is directed that the matter would be listed before the

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concerned disciplinary authority in accordance with law
to pass a fresh order in this regard.

Ans

(A.P. Nagrath)
Member (A)

/sunil/

V.S. Aggarwal

(V.S. Aggarwal)
Chairman