

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-2649/2002

New Delhi this the 27th day of August, 2003.

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

Kamini Gupta,
SI in Delhi Police,
(PIS No.27870001)
R/o 426, PTS,
Malviya Nagar,
New Delhi.

.... Applicant

(through Sh. Anil Singal, Advocate)

Versus

1A. Govt. of NCT of Delhi
through Commissioner of
Police, P.H.Q. I.P.Estate,
New Delhi.

1. Jt. Comm. of Police,
(Operations), PHQ,
I.P. Estate, New Delhi.

2. Sandeep Goel,
DCP (FRRO),
R.K. Puram,
New Delhi.

.... Respondents

(through Ms. Sumedha Sharma, proxy for Sh. Harvir
Singh, Advocate)

ORDER (ORAL)

Shri Justice V.S. Aggarwal, Chairman

The applicant faced disciplinary proceedings
and the Disciplinary Authority has imposed the following
penalty:-

"In view of the above a lenient view
is taken in this regard and I order to
withhold one increment of both the
officers with cumulative effect for a
number of 2 years. The period of
suspension w.e.f. 10.10.2000 to 13.3.2001
of these two officers W/SI Kamini Gupta
No. 1846/D and SI Om Prakash Jakhar
No.D/3085 is also treated as not spent on
duty for all intents and purposes."

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2. The applicant preferred an appeal. The Joint Commissioner of Police took a lenient view and reduced the penalty awarded to the delinquent of withholding of one increment with cumulative effect for a period of two years to that of withholding of one increment temporarily for a period of one year.

3. Learned counsel for the applicant raised certain questions touching the merits of the matter including (a) the copy of the report has not been supplied to the applicant; (b) certain material witnesses were not examined; and (c) the Appellate Authority considered the parawise comments offered by the Disciplinary Authority Dy. Commissioner of Police, FRRO, New Delhi, besides other pleas.

4. Since we are inclined to set aside the order passed by the Appellate Authority on the argument enumerated in sub-paragraph(c) above, therefore, ^{to avoid} ~~no~~ ~~lest~~ prejudice is caused to either party, ~~we~~ are not expressing ourselves on the merits of the main submissions and other submissions made at the Bar.

5. The Appellate Authority is supposed to decide the appeal on the basis of material on the record. It is the material which is made available to the alleged delinquent during the course of the proceedings. So far as the consideration of the comments offered by the Disciplinary Authority is

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concerned, the same had not been supplied to the applicant and obviously it had been submitted at the back of the applicant. Therefore, the applicant's learned counsel is justified in urging that prejudice is caused to the applicant while comments have been taken into consideration by the Appellate Authority.

6. Resultantly, we quash the order passed by the Appellate Authority with a direction that a fresh order may be passed ~~mentioning~~^{ignoring} comments offered by the Disciplinary Authority.

7. It shall be highly appreciated if the pleas raised by the applicant in the grounds in his appeal are considered on their merits and speaking order is passed. The necessary exercise may be completed within a period of 3 months from the date of receipt of a certified copy of this order.

S.K. Naik

(S.K. Naik)
Member(A)

V.S. Aggarwal

(V.S. Aggarwal)
Chairman