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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.498/2002

This the 20th day of February, 2003.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI KULDIP SINGH, MEMBER (J)

Jai Charan Verma S/O Hukam Singh,
R/O Village Dallupura,
Delhi-110096.

... Applicant

(By Shri Shyam Babu, Advocate)

-versus-

1. Govt. of NCT of Delhi through
its Chief Secretary,
Delhi Secretariat, Players' Building,
I.P.Estate, New Delhi.

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

3. Joint Commissioner of Police
(Armed Police), Delhi,
Police Headquarters,
ITO, New Delhi.

... Respondents

(By Ms. Jasmine Ahmed, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant was awarded punishment of dismissal in disciplinary proceedings on 21.3.1997. His appeal against the punishment was rejected on 8.1.1998. He challenged these orders in OA No.754/1998 which was partly allowed on 15.3.1999 quashing the appellate order directing the appellate authority to reconsider the penalty and pass a reasoned order imposing any lesser punishment other than dismissal/removal from service keeping in view the fact that applicant had put in 29 years of service in Delhi Police. Thereafter, the

(Annexure-A) whereby applicant was imposed punishment of forfeiture of two years of approved service permanently for a period of two years entailing proportionate reduction in his pay from the date of punishment order, i.e., 21.3.1997. It was further directed that he would not earn increment of pay during the period of reduction and on the expiry of the period, the reduction would have the effect of postponing his future increments of pay. Applicant filed an appeal to the Commissioner of Police on 28.6.1999. Before the appeal was decided, applicant filed OA No.153/2001 which was disposed of on 22.1.2001 directing the appellate authority to dispose of the appeal within a period of six weeks. The appeal was decided by order dated 17.3.2001 (Annexure-B) whereby the reduced punishment was confirmed. This appellate order has also been impugned here.

2. The learned counsel of applicant contended that FIR No.129/93 under Section 506 IPC was filed against applicant on the same charge as in the departmental enquiry. Applicant was acquitted in the criminal case on 12.3.1998. The orders of punishment dated 11.5.1999 and 17.3.2001 were passed after the acquittal order dated 12.3.1998 and are hit by rule 12 of the Delhi Police (Punishment & Appeal) Rules, 1980 and as such are void ab initio. The learned counsel further stated that the disciplinary authority had recorded a disagreement note on the findings of the enquiry officer which was supplied to applicant along with a copy of the findings of the enquiry officers. According to the learned counsel, the

findings of the enquiry officer and not a tentative view and as such, he had not been granted full opportunity of defence before taking a final view in the matter.

3. On the other hand, the learned counsel of respondents contended that acquittal in the criminal case does not necessarily absolve applicant of the misconduct in the disciplinary proceedings for which the standard of proof is different and less stringent than that in a criminal trial. The learned counsel further stated that in the disagreement note the disciplinary authority had not taken any final view on the findings of the enquiry officer and that applicant had been granted full opportunity to represent against the findings of the enquiry officer as well as the note of dissent recorded by the disciplinary authority.

4. We find that in the order dated 15.3.1999 (Annexure-F) whereby earlier OA No.754/1998 was decided by this Tribunal the acquittal of applicant in the criminal case had been taken into consideration. The Tribunal had observed as follows :

.....This is not a case where there is no evidence and the competent authority has dealt with the facts and evidence on record in accordance with the rules. We do not also find any force in the arguments advanced by the learned counsel for the applicant that because the applicant had been acquitted in the criminal case in which the learned Judge had made certain observations against Constable Jagdish Prasad the disciplinary proceedings ought not to have been held against the applicant. It is settled law that the burden and degree of proof in disciplinary proceedings is not the same as in criminal

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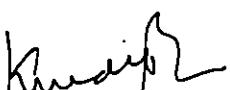
Thereafter, the Court had proceeded to direct the appellate authority to reconsider the penalty and pass a reasoned order imposing a lesser punishment. The contention of the learned counsel that provision of rule 12 of the Delhi Police (Punishment & Appeal) Rules, 1980 should have been taken into consideration by respondents and as applicant had been acquitted in the criminal case he should not have been punished departmentally. The issue of acquittal in the criminal case having already been considered by the Court in its order dated 15.3.1999 in OA No.754/1998 making directions to the appellate authority to consider imposition of a lesser penalty would not require this Court to reconsider the issue under rule 12 ibid.

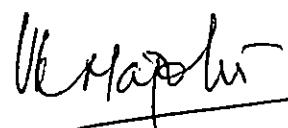
5. So far as the contention of the learned counsel of respondents regarding a final view by the disciplinary authority in the disagreement note is concerned, we have carefully gone through the disagreement note recorded by the disciplinary authority on the findings of the enquiry officer. The contention of the learned counsel is not acceptable as we find that the disciplinary authority has given various reasons for not agreeing with the findings of the enquiry officer. The disciplinary authority has not given any final view in the matter. The applicant was supplied a copy of the findings of the enquiry officer as also the disagreement note. His representation, among others, included his objection against the reasons recorded by the disciplinary authority against the

raised on behalf of applicant too does not meet our approval.

6. Though points raised by applicant's counsel have been rejected above, we observe that the penalty now imposed upon applicant in the impugned orders is a multiple punishment which has been termed as illegal in judgment dated 17.9.2002 by the Hon'ble Delhi High Court in CWP No.2368/2000 and other connected matters : Shakti Singh & Ors. v Union of India & Ors. In this view of the matter the order of punishment of forfeiture of two years of approved service permanently for a period of two years entailing proportionate reduction in his pay from the date of punishment order, i.e., 21.3.1997 with a further direction that applicant would not earn increment of pay during the period of reduction and on the expiry of the period, the reduction would have the effect of postponing his future increments of pay, is quashed and set aside and the case is remanded to respondents to reconsider the matter and pass fresh orders as per law.

7. The OA is disposed of in the above terms. No costs.


(Kuldip Singh)
Member (J)


(V. K. Majotra)
Member (A)

/as/