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Central Administrative Tribunal, Principal Bench

Original Application No.232 of 2002

New Delhi, this the 29th day of January, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. V.K. Majotra, Member(A)

Shri Durga Prasad
S/o Shri Khazan Singh
R/o Flat No.2/7, Court Lane,
Delhi-110054

- Applicant

(By Advocate: Shri P.P. Khurana, Sr. Counsel with Dr. Chandra
Prakash and Shri J.K. Dass

Versus

1. Lt. Governor
Govt. of NCT of Delhi
Raj Niwas
Delhi-110054
2. Joint Secretary (Vigilance)
Directorate of Vigilance
Govt. of NCT of Delhi
Old Secretariat,
Delhi-110054
3. Commissioner of Police
Delhi Police,
PHQ, I.P. Estate,
New Delhi-2
4. Union of India
through its Secretary
Ministry of Home Affairs
Govt. of India, North Block
New Delhi-110001

- Respondents

O R D E R (ORAL)

By Mr. V.K. Majotra, Member(A)

Heard Shri P.P. Khurana, learned senior counsel
of the applicant.

2. The applicant has challenged penalty of reduction in rank from the rank of Assistant Commissioner of Police to that of Inspector of Police in disciplinary proceedings initiated against him vide order dated 20.3.92. The learned counsel stated that while the applicant was posted as SHO, Police Station Kingsway Camp, Delhi during

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October-November, 1984, unprecedented riots broke out in the wake of assassination of Mrs. Indira Gandhi, the then Prime Minister of India. The enquiry proceedings were concluded on 14.12.98 and the enquiry officer did not held the charges against the applicant proved. The disciplinary authority, however, disagreed with the report of the enquiry officer and ordered a de-novo enquiry to be conducted against the applicant vide orders dated 6.8.99 without issuing a show cause notice and without affording the charged officer a reasonable opportunity of being heard. The applicant herein challenged the said order by filing an OA-1841/2000 which was disposed of vide orders dated 27.9.2000 setting aside the order of the disciplinary authority dated 6.8.99 as well as the consequential corrigendum of 7.10.99. However, it was left open to the disciplinary authority, if he was so advised, to issue fresh orders disagreeing with the findings of the enquiry officer, but only after issue of a notice and after affording applicant a reasonable opportunity of being heard. In pursuance of the aforesaid order of the Tribunal, the disciplinary authority served upon the charged officer a disagreement memo of 4.1.2001. Copy of the enquiry report was also supplied to the applicant on 18.1.2001. Thereafter the disciplinary authority i.e. the Lt. Governor of NCT of Delhi passed the impugned order dated 4.1.2002 imposing on the applicant the penalty of reduction in rank.

3. The learned counsel contended that the disciplinary authority had not disagreed with the findings

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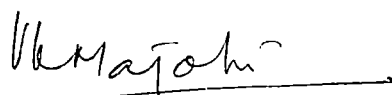
of the enquiry officer on the basis of any evidence and had proceeded to impose the impugned punishment merely by reiteration of the Articles of Charge levelled against the applicant.

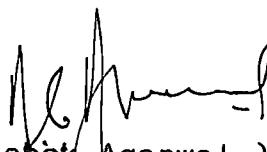
4. The note giving reasons for disagreement with the findings of the enquiry officer (Annexure 'F') states that the findings of the enquiry officer are not based on correct appreciation of evidence and the documents available on record. Further the enquiry officer had also used extraneous factors such as illusion to applicant's promotion in 1985 while summing up the enquiry report. He had also taken into consideration the good conduct and performance of the applicant. The disciplinary authority has stated that adverse or positive ACR entries or even the fact of subsequent promotion could not have been used by the enquiry officer to prejudice the evaluation of charges in disciplinary proceedings. The charged officer had inspected the original documents (copies of which had been made available to him alongwith the chargesheet), except the radio logbook of the Control Room which was not a listed document. Although the 7 witnesses had not appeared before the enquiry officer, they had filed affidavits before the Enquiry Commission in connection with the November, 1984 riots. According to the disciplinary authority, the enquiry officer had not taken into account the documentary evidence in arriving at his conclusions. The charged officer had confirmed receipt of no other documents but the radio logbook of Police Station Kingsway Camp dated 31.10.84-4.11.84 as also the relevant FIRs. On

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the basis of the documentary evidence, the disciplinary authority has concluded that although considerable information of ongoing violent incidents was passed on to the charged officer as per the radio logbook and daily diary register, the action taken by him was not commensurate with the requirements. The charged officer was expected to take stock of the serious situation and take timely preventive measures but he failed to rise to the occasion. The disciplinary authority also found that the charged officer did not make efforts to implement prohibitory order under Section 144 Cr.P.C. which was promulgated on 31.10.84 and the curfew that was imposed subsequently. It is stated that there is not a single entry on the records of the Police Station that announcements of the promulgation of the order under Section 144 Cr.P.C. in the area was made on 31.10.84 or that of imposition of curfew on 1.11.84. The charged officer had admitted in his written reply that he had not made any arrest under Section 188 IPC for violating the prohibitory orders.

5. From the material on record and the above discussion, we find that the respondents have implemented the directions contained in order dated 27.9.2000 in OA-1841/2000 and proceeded to complete the disciplinary proceedings against the applicant. We do not find any infirmity in these proceedings. Accordingly this OA is dismissed being devoid of merit, in limine.


(V.K. Majotra)
Member(A)


(Ashok Agarwal)
Chairman

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