

Central Administrative Tribunal, Principal Bench

Original Application No. 372 of 2002

New Delhi, this the 13th day of February, 2002

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. S.R. Adige, Vice Chairman(A)

ASI Ram Chander
No. 181/D s/o Shri Rajaram
r/o RZP 255 Raj Nagar-2
Palam Colony, New Delhi-45

- Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Commissioner of Police
Police Headquarters I.P Estate
New Delhi

2. Jt. Commissioner of Police
Southern Range
New Delhi

3. Dy. Commissioner of Police
South West Distt.
New Delhi

4. Enquiry Officer
ACP/OPS
South West Distt.
New Delhi

- Respondents

O R D E R (ORAL)

By Justice Ashok Agarwal, Chairman

Applicant, who at the relevant time was a Sub-Inspector (Min.), was proceeded in disciplinary proceedings with the following summary of allegations:

"It is alleged against SI Ram Chander No. 181-D (SI-Min.) (PISNo. 27740026) that during the course of enquiry conducted into the complaint of Shri Hira Ram Yadav @ Fauji r/o RZ-P-321, Raj Nagar Part-II Palam Colony, New Delhi, it has been found out that there is dispute between Smt. Vimla Devi wife of Shri Ram Chander Sub-Inspr(Min.) Delhi Police, No. 181/D (PISNO. 27740026) over transaction of money earned by illegal trafficking of illicit liquor. Both of them are neighbours. Further revealed that Smt. Vimla Devi was indulging in the business of illegal trafficking of illicit liquor with Hira Ram Yadav with the connivance of her husband SI Ram Chander No. 181/D. Besides a Maruti Car Registration of DL-2CB-5179 was in the name of Smt. Vimla Devi w/o SI Ram Chander, No. 181/D which was found involved in the illegal transportation of liquor. The same was impounded in

case FIR No.22/95 u/s 61/1/14 Excise Act., PS Jaffar Pur Kalan, New Delhi and 247/95 u/s 61/1/14 Excise Act., PS R.K.Puram, New Delhi. Apart from this, an Excise case has also been registered against the servant of SI Ram Chander, No.181/D vide FIR No.219/93 u/s 61/1/14 Excise Act., PS Dabri, SI Ram Chander No.181/D and his wife are of quarrelsome nature and has been found using the influence of his office maligning the image of the force. By use of his influence he got registered 3 excise cases only against Hira Ram. Hence, the above Criminal activities of Smt.Vimla Devi and her husband SI (Min.) Ram Chander No.181/D presently posted in South West District have been tarnishing the image of the whole of the Delhi Police Force. Besides it has been found out that SI Ram Chander, No.181/D has not given any intimation to the department about the purchase of the above said Maruti Car Registration NO.DL-2CB-5179 in the name of his wife Vimla Devi which is clear violation of CCS (Conduct) Rules, 1964.

The above act on the part of Sub-Inspr.(Min.) Ram Chander No.181/D amounts to gross misconduct, unbecoming of Police Officer and lowering the image of Delhi Police, which renders him liable to be dealt with departmentally under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980 as well as CCS (Conduct) Rules, 1964."

2. The enquiry officer conducted the requisite enquiry. He has examined 9 prosecution witnesses, 9 documents and 3 defence witnesses. He has also considered the defence statement submitted by the applicant. By his report of 18.11.98, he has concluded as follows:

"CONCLUSION: The charges which have been levelled against the defaulter are (i) he has connived with his wife who was indulging in bootlegging alongwith Shri Heera Ram Yadav, (ii) he did not intimate the department about the purchase of Maruti Car No.DL-2CB-5179 in the violation of CCS (Conduct) Rules, 1964 and (iii) he misused his official position which maligned the name of the force.

After careful scrutiny of the statements of all the prosecution witnesses and documents and after having taken the statements of defence witnesses and defence statement into consideration, I am of the view that all the above mentioned 3 charges are proved. However one charge that his servant was arrested is not proved because nothing came on record to show that the accused who was arrested vide case FIR No.219/93 u/s 61.1.14 Act PS Dabri was the



defaulter's servant."

3. Aforesaid report of the enquiry officer was duly served on the applicant who, in turn, submitted his representation against the same. The disciplinary authority by his order of 4.3.99 has come to the following conclusion:

"1. That the defaulter was using his name and his rank to harass and brow-beat others and specially the complainant i.e. Hira Ram Yadav. This process started and ended in Registration of certain cases against the Hira Ram Yadav on the complaint of the wife/relatives of the defaulter Sub-Inspector.

2. That the defaulter was a part to the illegal trafficking of liquor alongwith the complainant (Hira Ram), earlier and even after. It is seen that the complainant i.e. Hira Ram Yadav went to get the accused released in excise cases and stood surety where the car of the wife of defaulter was involved.

3. That the defaulter did not inform the purchase of the car by his wife to the department which is clear contravention to the C.C.S. (Conduct) Rules, 1964.

4. The same car was found involved in the illegal trafficking of liquor at two different places and on two different occasions."

4. Based on the findings, the disciplinary authority proceeded to impose a penalty of reduction in rank until he is found fit after a period of five years from the date of issue of the order. Aforesaid order of penalty issued by the disciplinary authority was carried by the applicant in appeal and the appellate authority by his order of 14.7.99 has maintained the order of penalty and has dismissed the appeal. Aforesaid orders are impugned by the applicant in the present OA.

5. We have heard Shri Arun Bhardwaj, the learned counsel appearing in support of the OA. He has first



contended that the order in appeal in the instant case has been issued by the Joint Commissioner of Police who, according to him, is not one of the disciplinary authorities provided in Delhi Police Act and Rules. He has placed reliance on a decision of this Tribunal in the case of Sube Singh, ASI vs. Union of India & ors. (O.A. No. 1751/2000 and other connected matters) in support of the aforesaid contention. In our view, aforesaid contention can no longer be countenanced as the aforesaid order of the Tribunal has been carried to the High Court in a writ petition and the same has been stayed. Aforesaid contention, in the circumstances, is rejected.

6. It is next contended by Shri Bhardwaj that this is a case of no evidence. We have examined the aforesaid contention carefully. After going through the material on record, we find that the aforesaid contention is devoid of merit. In our view, findings arrived at are based on good and cogent evidence on record. The same has found favour with the disciplinary authority. It has to be remembered that we are not a court of appeal. It will, therefore, not be open to us to re-appreciate the evidence and arrive at a finding different from the one which has found favour with the disciplinary authority. Aforesaid contention of Shri Bhardwaj is accordingly rejected.

7. It is also contended by Shri Bhardwaj that the enquiry officer in the instant case has prepared the list of witnesses. According to him, that has the consequence of his acting as a disciplinary authority. He, therefore,

could not be expected to act as an impartial enquiry officer. Orders passed in consequence of the aforesaid enquiry in the circumstances, according to Shri Bhardwaj, are liable to be quashed and set aside.

8. As far as the enquiry officer is concerned, he merely appears to have ~~subscribed~~ his signature on the list of witnesses while forwarding the same to the applicant. It cannot, in the circumstances, be held that he has gone about collecting ~~the~~ evidence, thereafter ^{has} ~~prepared~~ ^{the} list of witnesses and thereafter, has proceeded to conduct the enquiry. Enquiry officer, in the circumstances, cannot be considered to be biased against the applicant on this score. This contention of the applicant is also rejected.

9. Shri Bhardwaj has lastly criticised the measure of penalty imposed upon the applicant. He has pointed out that the penalty imposed is one of reduction in rank until he is found fit after a period of five years from the date of issue of the order to be restored to the higher post of Sub-Inspector (Min.) so that it becomes deterrent for others not to follow the same. This penalty, according to Shri Bhardwaj, is vague and not specific. According to him, the period of penalty ought to have been for a specific period. In our view, the order of penalty has not been very happily worded. All that is meant is that the period of reversion will be for a period of five years during which period applicant is expected to have improved. Aforesaid contention, in the circumstances, is

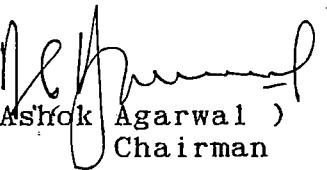


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also rejected.

10. For the foregoing reasons, we find that the orders impugned are in order. No interference is called for. Present OA, in the circumstances, we find is devoid of merit which is accordingly dismissed in limine.


(S.R. Adige)
Vice Chairman(A)


(Ashok Agarwal)
Chairman

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