

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2650/2002

New Delhi, this the 4th day of August, 2003

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

11

Prem Raj
27/8-A, Indira Vikas Colony
Nirankari Colony, Delhi-110 009 ... Applicant

(Shri S.K.Gupta, Advocate)

versus

1. Secretary
Ministry of Home Affairs, New Delhi
2. Chief Secretary
Govt. of NCT of Delhi
IP Estate, New Delhi
3. Commissioner of Police
Police Hqrs., IP Estate, New Delhi
4. Special Commissioner of Police(Inte.)
Police Hqrs., New Delhi
5. Deputy Commissioner of Police
(Special Cell), Police Hqrs.
IP Estate, New Delhi ... Respondents

(Shri George Paracken, Advocate)

ORDER(oral)

Justice V.S.Aggarwal

The sole question which ^{craves} ~~arises~~ for an answer is as to whether in the facts of the present case, the respondents were justified in passing the impugned order. At this stage, we deem it necessary to mention that though one of the grounds taken was that Rule 11(1) of the Delhi Police (Punishment & Appeal) Rules, 1980 is ultra vires of the provisions of the Constitution, the same was not pressed during the course of the submissions made.

2. The substance of the controversy lies in a narrow compass. The applicant was a Sub-Inspector of Police in Delhi Police. He was arrested on the allegation that he demanded and accepted illegal gratification of Rs.300/- in consideration of submitting favourable report for

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passport of the complainant Mohd. Israil Ansari. He was placed under suspension. The Court of learned Special Judge, Delhi found the applicant guilty of the offence punishable under Section 13(2) of the Prevention of Corruption Act, 1988. Applicant preferred an appeal against the judgement and order of conviction passed by the learned Special Judge. In the Delhi ^{High} Court the whole controversy raised was pertaining to the sentence that was awarded but the material portion of the judgement of learned Special Judge was upheld.

3. Learned counsel for the applicant contended that, relying upon the decision of the Supreme Court in the case of UOI Vs. Tulsi Ram Patel 1985(2) SLJ 145, the Supreme Court in an unambiguous term has held that "where the disciplinary authority comes to know that a Government servant has been convicted on a criminal charge, it must consider whether his conduct that has led to conviction was such as warrants imposition of a penalty of dismissal from service".

4. There is no dispute raised on either end with respect to the same. Therefore it needs to be seen whether the disciplinary authority has considered this aspect or not.

5. The disciplinary authority in its order dated 18.3.2002 has recorded as under:

"Since the offence of the defaulter is of grave nature, involves moral turpitude which has also resulted in his conviction in a criminal case is, therefore, of corruption."



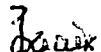
6. Applicant preferred an appeal within the department and the appellate authority recorded as under:


13

"Since the conviction was upheld on appeal on the charges of demanding and accepting illegal gratification, the orders passed by the disciplinary authority commensurate with the default."

7. It is obviously clear that both the disciplinary as well as appellate authority have considered the gravity of offence of demanding and accepting of illegal gratification which promoted them to pass the orders dismissing the applicant from service. Keeping in view the aforesaid, the very basis of argument loses its importance and significance because both the authorities, keeping in view the gravity of the offence, have considered the same and thereupon passed the orders. No other plea has been taken.

8. Resultantly, keeping in view the aforesaid, there is no ground to interfere with the impugned orders and the OA is dismissed.


(S.K. Naik)
Member(A)


(V.S. Aggarwal)
Chairman

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