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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No. 626 of 2002

Date of Decision 8.1.2003

Ct. Arun Kumar ... Applicant

(Shri Rajeev Kumar) ... Advocate for the Applicant

VERSUS

Commissioner of Police ... Respondents  
and Ors.

(Ms. Renu George) ..... Advocates for the Respondents

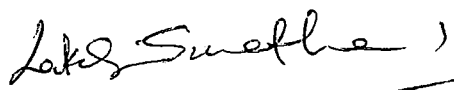
Coram:-

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)

Hon'ble Shri V. Srikantan, Member (A)

1. To be referred to the Reporter or not ? Yes

2. Whether it needs to be circulated to other  
Benches of the Tribunal? No

  
(Smt. Lakshmi Swaminathan )  
Vice Chairman (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 626/2002

New Delhi this the 8th day of January, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)  
Hon'ble Shri V. Srikantan, Member (A)

Ct. Arun Kumar  
S/O Late Uma Kant Chaudhary,  
P.S. Bawana, New Delhi-39

..Applicant

(By Advocate Shri Rajeev Kumar )

VERSUS

1. The Commissioner of Police,  
Delhi Police Headquarters,  
New Delhi.
2. The Joint Commissioner of  
Police, Northern Range, Delhi  
Police Headquarters, MSO Bldg.,  
I.P. Estate, New Delhi.
3. The Addl. Dy. Commissioner of  
Police, North West District,  
Delhi.

..Respondents

(By Advocate Ms Renu George )

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J) )

The applicant has impugned the legality of the action and orders issued by respondents 2 and 3 dated 18.1.2001, which were passed by the disciplinary authority, against which his appeal was rejected by the appellate authority by order dated 18.5.2001.

2. The aforesaid penalty orders have been imposed on the applicant after holding a Departmental enquiry against him under the provisions of the Delhi Police Act, 1978, read with the provisions of the Delhi Police (Punishment and Appeal) Rules, 1980. The respondents have alleged that while the applicant was posted in P.S. Shalimar Bagh, Delhi he was detailed to deposit the exhibits of some

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cases, including the exhibits of case FIR No. 504/96, FIR No.714/99, P.S.Shalimar Bagh, Delhi at Central Forensic Science Laboratory (CFSL), Hyderabad. These exhibits of the cases were allegedly stolen from the possession of the applicant while he was travelling in the A.P.Express, for which Departmental enquiry was held against him. The Inquiry Officer in his report dated 8.2.2000, after discussing the evidence of the witnesses and the materials brought before him during the Departmental enquiry proceedings had come to the conclusion that the allegations against the applicant have been fully supported by the witnesses and the charge against him were substantiated. The disciplinary authority in his order dated 8.1.2001 had passed the order of penalty of withholding applicant's next increment for a period of three years with cumulative effect of postponing his future increments of pay. This punishment has been upheld by the appellate authority who has stated that he has not found any mitigating circumstances in the appeal. In the penalty orders, the competent authorities had found the charge levelled against the applicant as fully proved during the Departmental enquiry proceedings. The appellate authority has also stated that the appellant being a police officer should have taken better care of important exhibits and as the result of the negligence of the applicant, a case of cheating and forgery had been damaged beyond repair.

3. Learned counsel for the applicant has submitted that the applicant cannot be held negligent on the basis of

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the finding of the respondents who have passed the penalty orders. He has submitted that the Inquiry Officer had himself noted that the incident of theft could have been avoided if two subordinates were detailed for this long journey from Delhi to Hyderabad, the applicant should have taken sufficient stock of drinking water for the journey and should not have left the train at Jhansi where the theft occurred. He has, therefore, prayed that the impugned orders may be set aside with consequential benefits.

4. We have seen the reply filed by the respondents and heard Ms Renu George, learned counsel. Learned counsel has submitted that because of the negligence on the part of the applicant, very important exhibits of cases have been stolen from his possession while he was travelling in the A.P. Express. In the absence of these documents/ exhibits, the accused persons in those cases have gone scot free of the charges levelled against them. She has submitted that the Departmental enquiry proceedings have been held in accordance with rules and after compliance of the principles of natural justice. She has submitted that being a Police Constable he should have taken sufficient care of his belongings i.e. all documents/exhibits in question but he did not do so. She has, therefore, submitted that there is no illegality in the impugned orders and has prayed that the OA may be dismissed. The applicant has filed a rejoinder which we have also seen.

18. 5. It is relevant to mention that although a ground

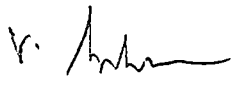
has been taken in the OA that the appellate authority did not give him any personal hearing, in the appellate authority's order it has been mentioned that he has heard the appellant in the Orderly room. During the hearing, Shri Rajeev Kumar, learned counsel had not referred to this ground, which from the records appears to be totally erroneous as the appellate authority has recorded that he has heard the applicant in the Orderly room. From these facts it appears that the applicant has not stated the correct facts and it is perhaps for this reason that although this ground has been taken in the OA, it was not referred to in the arguments by the learned counsel for the applicant. In any case, on a perusal of the appellate authority's order, this ground is rejected as untenable.


6. On a careful perusal of the impugned orders passed by the disciplinary authority and the appellate authority and having regard to the settled law on the subject of judicial review in such circumstances, we find no good grounds to interfere in the matter. The impugned penalty orders have been issued after holding a Departmental enquiry in accordance with the rules and following the principles of natural justice. This is not a case of no evidence. The applicant does not also deny the loss of all the exhibits/documents relating to certain criminal cases which he was to deposit in the CSFL, Hyderabad. In the facts and circumstances of the case, it cannot, therefore, be held that

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the penalty orders are either arbitrary, perverse or illegal to justify setting aside the impugned orders.

7. In the result, for the reasons given above, as we find no merit in this application, the OA fails and is dismissed. No order as to costs.

  
(V.Srikantan )  
Member (A)

  
( Smt.Lakshmi Swaminathan )  
Vice Chairman (J)

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