



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 3403/2015

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Reserved on: 04/02/2020

Pronounced on: 17.02.2020

Hon'ble Mr. S. N. Terdal, Member (J)
Hon'ble Mr. Mohd. Jamshed, Member (A)

Anand Singh, (Aged 44 yrs.),
S/o Late Sh. Prem Singh,
R/o C-5/84, Gali No. 2,
Sadat Pur, Delhi – 110094.
(Constable Delhi Police)
(No. 2245/Sec (previous No. 1829/Sec)
PIS No. 28902131.

...Applicant

(By Advocate: Mr. Kanwal Sapra)

Versus

1. The Commissioner of Police,
Delhi Police,
Police Headquarters, MSO Building,
I.P. Estate, New Delhi.
2. The Joint Commissioner of Police,
Security, Security Police Lines,
Vinay Marg, New Delhi.
3. Dy. Commissioner of Police,
Security, Security Police Lines,
Vinay Marg, New Delhi.

...Respondents

(By Advocate: Ms. Harvinder Oberoi)

ORDER**Mohd. Jamshed, Member (A):-**

The applicant is working as Constable in Delhi Police since 1990. He was posted in Security unit of Delhi Police. In the year 2011, a joint departmental enquiry was ordered against the applicant and others. This enquiry was in connection with a missing pistol from the stock of Kot/E-Block/Security between 11.01.2010 to 13.01.2010. During the said period, the applicant was posted there. A joint departmental enquiry was ordered under the provisions of Delhi Police (Punishment and Appeal) Rules, 1980 on the allegations that during a check of Kot/E-Block/Security by SI Mr. Bhopal Singh, one 09 mm Pistol No. 15069563 was found missing from stock of Kot/E-Block/Security. In the enquiry it was established that the said pistol was deposited by Head Constable Mr. Pushpender Singh on 11.01.2010 in the Kot/E-Block/Security. However, the pistol was missing from the stock and the same was not even reported by any of the staff. The applicant along with others was prima-facie held responsible for causing loss of Government property due to negligence. As this amounted to



gross dereliction and carelessness in discharge of duties, the departmental enquiry was instituted against them. The Inquiry Officer (IO) held the charges as partly proved. Copies of the finding were supplied to the applicant for making representations. Considering the IO's finding and the representation of the applicant, the Disciplinary Authority (DA) awarded punishment of forfeiture of one year approved service temporarily for a period of 01 year entailing proportionate reduction in pay on the applicant and others along with recovery of the cost of pistol equally from the salary of all those held responsible vide order dated 05.04.2013. The applicant preferred an appeal raising various points. The Appellate Authority (AA) in a detailed speaking order dated 01.09.2014 rejected the appeal. Aggrieved by this decision, the applicant has filed the present OA seeking the following reliefs:-

“a) Call for the record of the case; and

b) set-aside the impugned order vide which the punishment of forfeiture of service and entailing proportionate reduction in pay and deduction of cost of weapon from the salary of the Applicant vide impugned order Annexure-A & also to set aside the impugned order Annexure-b vide which the Appellate Authority rejected the appeal of the applicant, with all consequential benefits.”



2. The applicant contends that although he along with other staff was on duty at Kot/E-Block/Security between 11.01.2010 to Page | 4

13.01.2010, no such matter regarding missing of the pistol came to his notice. This aspect of missing pistol only came to the notice during a check conducted by SI Mr. Bhopal Singh in the year, 2011 and, therefore, the applicant has no knowledge of the missing pistol. He has also submitted that the IO in his report has also concluded that the charge against all the defaulters has been partly proved to the extent that despite being aware of the missing pistol, they failed to inform the senior officers. In view of these findings and there being no direct proof holding the applicant responsible for the loss of pistol, applicant submits that the punishment imposed by the DA and upheld by the AA are arbitrary and deserves to be set aside.

3. Respondents in their counter affidavit opposed the OA and submitted that the applicant and others were on duty on 11.01.2010 when the said pistol was issued to Head Constable Mr.



Pushpender Singh. The said pistol was deposited by him on the same day, as was obvious from the arms register maintained. This pistol was never issued to any staff after 12.01.2010. Thus, from the records and evidence, it is clearly established that the applicant and others were aware about the missing pistol, however, none of them reported it to their senior officers. The applicant along with others was held jointly responsible. It could not be established by the IO whether they were directly responsible for the loss of the pistol, however, IO held them responsible for failing to bring this important aspect concerning safety and security to the notice of their senior officers and thereby rightly held responsible and awarded the punishment which is commensurate with their acts by detailed order passed by the DA and upheld by the AA. It is also submitted that the applicant was afforded all opportunities to represent his case in accordance with law during the enquiry and also thereafter. Prosecution and defence witnesses were examined and the AA also gave personal hearing to the applicant before deciding his appeal.



4. We heard Mr. Kanwal Sapra, learned counsel for the applicant and Ms. Harvinder Oberoi, learned counsel for the respondents.

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5. Learned counsel for the applicant strongly argued that although the applicant along with other was on duty at Kot/E-Block/Security on 11.01.2020 when the said pistol was issued to Head Constable. It is not disputed that the said pistol was also deposited back by the Head Constable and entries regarding the same have been made in the register. However, the fact that the pistol was not issued to anyone thereafter and the same was not available in the stock was never brought to the notice of the senior officers by the applicant. The in-charge SI Mr. Ajit Singh of Kot/E-Block/Security subsequently passed away and was, therefore, not available for throwing any light on the missing of the said pistol. This was found missing by SI Mr. Bhopal Singh who took over the charge after the demise of SI Mr. Ajit Singh. This aspect has also been mentioned in the enquiry report. It was also argued that only charge against the applicant has been only partly proved despite that the DA has imposed a very harsh punishment



of forfeiture of one year approved service temporarily for one year entailing proportionate reduction in pay and recovery of the cost of weapon from the salary of the applicant and other. Thus causing double jeopardy.

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6. Counsel for the respondents has argued that the applicant was on duty at Kot/E-Block/Security and it was his responsibility to ensure issuance of arms and their safe return. The applicant along with others was also responsible for bringing any such loss or theft immediately to the notice of the senior officers. The elaborate system prevalent for such checks is on a daily basis as the matter pertaining to fire arms is of a sensitive nature which can jeopardise safety and security and therefore all concerned are squarely responsible for their safe custody. In this case, the applicant along with others was rightly held responsible for failing to bring this aspect of the missing pistol to the notice of senior officers immediately. This was detected only after the new SI took over charge.

7. There is no denying the fact that the applicant was posted in Kot/E-Block/Security



during the period the loss of the pistol took place on 11.01.2020. This pistol was issued to Head Constable and was returned back the same day. An inventory/goswara of weapon was drawn every day and it was evident that the pistol was missing. However, neither the SI in-charge nor the applicant and others brought this aspect of missing pistol to the notice of senior officers. It was only after the SI Mr. Ajit Singh passed away, the charge was given to SI Mr. Bhopal Singh, who undertook a detailed inventory/goswara in 2011 and found that the pistol was missing. Subsequently the applicant and other staff who were on duty between 11.01.2010 to 13.01.2010 were issued charge sheet in accordance with law. Due opportunities were given and submissions made by the applicant were considered. During the enquiry, prosecution and defence witnesses were examined and IO held the charges as partly proved to the extent that despite being aware of the loss of the said pistol, the applicant and others failed to inform the senior officers. The DA considered the enquiry report and the submission of the applicant and passed a detailed speaking order imposing the punishment



of forfeiture of one year approved service temporarily for one year entailing proportionate reduction in pay and recovery of the cost of weapon from the salary of the applicant as well as others.

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The DA considered the appeal submitted by the applicant and gave personal hearing and through a detailed order dated 01.09.2014 rejected the appeal.

8. The claim of the applicant in this case is primarily of not being responsible for the lapse attributed to him and also about the subsequent punishment imposed on him along with the recovery of the cost of the missing pistol. On all these aspect we do not find any infirmity. The disciplinary proceedings have not been challenged by the applicant. It is evident that reasonable opportunities have been afforded to the applicant during the enquiry and before the DA and AA. As far as the charge holding the applicant responsible for the loss of pistol is concerned, the IO held him partly responsible which has been considered by the DA and the punishment has been imposed. There is no double jeopardy as it is only one punishment that has been imposed which is



forfeiture of one year approved service temporarily for one year entailing proportionate reduction in pay and recovery of the part cost of the pistol from the applicant. The punishment awarded thus cannot be termed as double jeopardy. It is also evident that the DA and AA have considered the aspect of charges having been proved only partly and imposed the punishment. So far as the relief sought by the applicant is concerned with regard to quantum of punishment, the power of judicial review of Courts and Tribunal is limited. Catena of judgments of Hon'ble Apex Court clarified this aspect. The Hon'ble Apex Court in the case of **Parma Nanda Vs. State of Haryana and others** reported in **1989 (2) SCC 177 had held as under:-**

“The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the inquiry officer or competent authority where they are not arbitrary or utterly perverse. The power to impose penalty on a delinquent officer is conferred on the competent authority either by an Act of legislature or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for



that of the authority. The adequacy of penalty unless it is mala fide is certainly not a matter for the Tribunal to concern with. The Tribunal also cannot interfere with the penalty if the conclusion of the inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter.”

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9. In view of the above ruling and the facts of the case, we do not find any illegality or infirmity in the disciplinary proceedings and in the punishment awarded. Accordingly, the OA is dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(S.N. Terdal)
Member (J)

/Ankit/