



**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-95/2016

Reserved on : 28.01.2020.

Pronounced on : 04.03.2020.

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

Chand Singh
ASI (Ex.) in Delhi Police
PIS No. 28824631
Aged about 53 years
S/o Late Sh. Prem Singh,
R/o 13-A, Rishi Nagar,
Amar Colony, Nangloi,
Delhi-41. Applicant

(through Sh. Anil Singal, Advocate)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police,
PHQ, IP Estate, New Delhi.
2. Joint C.P. (Northern Range)
PHQ, IP Estate, New Delhi.
3. DCP (Outer Distt.),
Pitam Pura, New Delhi-34. Respondents

(through Sh. Vijay Kumar Pandita, Advocate)



ORDER

Mohd. Jamshed, Member (A)

The applicant is working as ASI (Exe.) in Delhi Police. The present O.A. has been filed challenging the findings of the Enquiry Officer (EO) and the orders by the Disciplinary Authority (DA) and Appellate Authority (AA).

2. The facts of the case, as stated in the OA, are that the applicant on 18.12.2012 was directed to attend the Court on 19.12.2012 in the case of anticipatory bail application filed by an accused in case FIR No. 440/12 PS Alipur, Delhi. He was assigned the responsibility, as the concerned SI, who was the Investigating Officer of the case, was on leave. The applicant was thus not familiar with the details of the case. He attended the Court on 19.12.2012 at 9 AM without obtaining the approval of the SHO on the reply to be filed. In the Court he claims that he duly briefed the APP. The Hon'ble Court granted anticipatory bail to the accused in FIR No. 440/12. The applicant duly briefed the SHO about it on his return. Subsequently, a departmental enquiry was initiated against the applicant vide order dated 29.01.2013 on the ground that the applicant did



not oppose the Anticipatory Bail Application properly due to ulterior motives resulting in the accused getting the anticipatory bail from the Court. It was also mentioned that he did not get the reply to bail application forwarded through SHO, Alipur. The enquiry was conducted by the EO. The applicant submitted his defence statement to the EO requesting that he be exonerated. However, the EO submitted his findings dated 18.06.2014 to the DA concluding that the charges levelled against the applicant stand proved. The DA agreed with the findings of the EO, issued a show cause notice to the applicant to make a representation against the findings. The applicant submitted a detailed representation in reply to the show cause notice issued to him. However, the DA vide order dated 22.08.2014 did not take the same into consideration and awarded the penalty of withholding of one increment for a period of one year without cumulative effect to the applicant. An appeal was preferred against the orders of the DA again raising all the points. The AA vide order dated 22.06.2015 rejected the same. The applicant contends that the enquiry was not conducted properly and suffers from various infirmities. The DA and AA also did not consider



various aspects highlighted by him in his representations and thus all these orders are bad in law and should be set aside. Aggrieved by these actions of the respondents, the applicant has filed the present O.A. seeking the following reliefs:-

- “1. To quash and set aside the impugned Findings dt. 18.6.2014, Order of punishment dt. 22.8.2014 & Appellate order dt. 22.6.2015.
2. To direct the respondents to restore to the applicant his original pay with all consequential benefits including promotion/seniority and arrears of pay.
3. To Award cost of the proceedings in favor of the applicant and
4. To pass such other and further orders as deemed it and proper in the circumstances of the case to meet the ends of justice.”

3. Respondents have filed their counter affidavit opposing the O.A. They submitted that a departmental enquiry was initiated against the applicant under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980 vide order dated 29.01.2013 on the allegations that while he was posted as ASI at Police Station, Alipur, on 19.12.2012, anticipatory bail application was listed in FIR No. 440/2012 dated 13.12.2012 before the Court. As the concerned EO was on leave, the applicant was assigned the responsibility of attending the Court and opposing the bail application. The applicant, however, did not oppose the bail matter in the Court due to



which the accused got the anticipatory bail from the Court. The applicant had neither discussed the matter with SHO, Alipur nor obtained his approval in forwarding the bail application. For this misconduct, the applicant was placed under suspension vide order dated 28.12.2012 and later on reinstated vide order dated 27.01.2013. It is also submitted that the SHO was available on 18.12.2012 and 19.12.2012 but the applicant failed to get the bail application forwarded from SHO as per Rules. It is the prime responsibility of the applicant to go through the file carefully and to oppose the anticipatory bail application of the accused strongly but he did not do so. DE was conducted and cross examination of the prosecution witnesses was undertaken. Reasonable opportunities have been provided to the applicant during the enquiry and also subsequently to make representation to the competent authorities including the AA. The respondents have also drawn the attention of the Tribunal to a catena of judgments of the Apex Court regarding the limitation of the Tribunals/Courts to interfere with the disciplinary proceedings and the orders of the DA/AA, unless such discretion suffers from



such material/procedural irregularity, which would shock the conscience of the Tribunal/Court.

4. Heard Sh. Anil Singal, learned counsel for the applicant and Sh. Vijay Kumar Pandita, learned counsel for the respondents.

5. The applicant while posted as ASI at Police Station, Alipur on 19.12.2012 attended the anticipatory bail application case in respect of an accused in FIR No. 440/12 dated 13.12.2012 u/s 147/148/149/307 IPC and 25/57/54/59 of Arms Act in the Court. The Court granted anticipatory bail to the accused. On 22.12.2012, SHO, Police Station, Alipur sent a report to the senior officers stating that:-

"It is submitted that on 19.12.2012 bail matter in r/o accused Narender Singh case FIR No. 440/12 dated 13.12.2012 u/s 147/148/149/307 UPC and 25/27/54/59 Arms Act PS Alipur was fixed in the court of Sh. R.P.S. Teji, Ld. ASJ, Room No. 205, Rohini Delhi. SI Amit Dahiya, IO of the case was on paternity leave vide DD No. 14A, dated 17.12.2012. As such ASI Chand Singh No. 46/ND was directed to attend the Hon'ble Court with case file to oppose the bail of accused. However ASI Chand Singh, No. 46/ND with some motive did not oppose the bail properly and got recommended by senior officers and due to that accused Narender got anticipatory bail. The bail application did not get forward by me. This is serious lapse on your part, ASI Chand Singh No. 46/ND.

It is therefore, I recommend departmental action against ASI Chand Singh, No. 46/ND may please be initiated against him."



6. The respondents taking note of the report of the SHO, Police Station, Alipur placed the applicant under suspension. Departmental enquiry was ordered. There have been subsequent changes in the enquiry officers in view of various departmental issues. The EO finally examined the prosecution witness and provided him the opportunity to cross examine the prosecution witnesses, which he availed. The charges were framed and approved from the DA. A charge sheet was served on the applicant on 05.06.2014. As the applicant did not plead guilty, he was asked to submit his defence witnesses or to submit his written defence statement with reference to the charges. The applicant did not produce any defence witnesses in his defence but submitted his written defence statement. The EO thereafter completed the enquiry holding the applicant guilty of the charge. A copy of the findings of the EO was given to the applicant vide letter dated 23.06.2014 to submit his written representation against the findings. The applicant submitted his written representation dated 02.07.2014 opposing the findings of the EO and submitting that he properly presented the case and is not responsible for lacking in discharge of his duty in this regard. The DA not only considered



the findings of the EO, written representation of the applicant but also gave the applicant a personal hearing. In a detailed speaking order covering all aspects raised by the applicant, the DA vide order dated 22.08.2014 imposed the punishment of withholding of one increment for a period of one year without cumulative effect on the applicant. Applicant further made a detailed representation highlighting all the points, which were considered by the AA and in another detailed speaking order passed on 22.06.2015 the AA rejected the appeal. The main contention of the applicant is that he was not the proper investigating officer of the case. As the concerned EO of the case was on leave, he was asked to attend the Court. He also could not contact the SHO as he had to attend the Court on 19.12.2012 at 9 AM. It has been submitted by the respondents that the file was given to the applicant on 18.12.2012 and he could have contacted the SHO on phone also. All these points have been duly covered by the EO in the enquiry report and have been duly considered by the DA and AA. It is also obvious that the disciplinary proceedings against the applicant have been undertaken in accordance with law and the applicable rules. All due



opportunities have been extended to the applicant during the enquiry and thereafter before the DA/AA. Having considered all aspects, a detailed speaking order has been passed by the DA imposing withholding of one increment for a period of one year without cumulative effect on the applicant.

7. In view of the above mentioned, we are of the view that there is no infirmity or violation of any rules in the disciplinary proceedings against the applicant. The punishment orders are also detailed speaking orders and do not indicate any summary or casual approach in considering the facts of the case. It is also established that the role of the Tribunal/Court is limited in disciplinary matter. As has been laid down by Hon'ble Supreme Court in **B.C. Chaturvedi Vs. UOI & Ors.**, 1995 (6) SCC 749 the High Court/Administrative Tribunal cannot interfere with the punishment after holding enquiry. Apex Court in **Union Territory of Dadra & Nagar and Haveli Vs. Gulabhai M. Lab.**, (2010)5 SCC 775 also held as under:-

“13. The legal position is fairly well settled that while exercising power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the Disciplinary Authority, and/or on appeal the Appellate Authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural



irregularity or that would shock the conscience of the Court/Tribunal. The exercise of discretion in imposition of punishment by the Disciplinary Authority or Appellate Authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the Court or a Tribunal would not substitute its opinion on reappraisal of facts...."

8. In view of various judgments of the Apex Court and Rules on the subject, we do not find any merit in the present O.A. and the same is accordingly dismissed. No order as to costs.

(Mohd. Jamshed)
Member (A)

(S.N. Terdal)
Member(J)

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