



## **CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH**

OA No. 1395/2018

Reserved on 05.03.2020  
Pronounced on 17.03.2020

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

SI (Exe.) Som Dutt  
(Belt No. D/2874, PIS No. 28780208)  
S/o Sh. Pirthi Singh  
R/o H.No.175-A, Near Holi Chowk,  
Banker, PS-Nartela,  
Delhi-110040.

Last Posting at:  
Special Branch  
Aged around 59 years ... Applicant

(By Advocate: Mr. Sourabh Ahuja )

### **VERSUS**

1. GNCT of Delhi  
Through its Chief Secretary  
Delhi Sachivalaya Players Building  
I.P.Estate, New Delhi-2
2. Joint Commissioner of Police,  
Special Branch, Delhi Police,  
Through Commissioner of Police,  
Police Head Quarters, IP Estate,  
MSO Building, New Delhi.
3. Deputy Commissioner of Police,  
Special Branch, Delhi Police,  
Through Commissioner of Police,  
Police Head Quarters, IP Estate,  
MSO Building, New Delhi. ... Respondents

(By Advocate: Ms. Harvinder Oberoi )



## **O R D E R**

### **Hon'ble Mr. S.N. Terdal, Member (J):**

We have heard Mr. Sourabh Ahuja, counsel for applicant and Ms. Harvinder Oberoi, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. The applicant in the OA has prayed for the following reliefs:

- "(a) Quash and set aside impugned order dated 18.03.2016, findings dated 29.01.2016, dismissal order dated 22.09.2016, Appellate Authority order dated 15.01.2018 and suspension order dated 29.01.2016 (mentioned in Para 1 of the OA), whereby the respondents inflicted the penalty of dismissal from service on the Applicant and his suspension period was treated as not spent on duty for all intents and purposes. And
- (b) Direct the respondents to reinstate the Applicant back in service with all consequential benefits viz. back wages, seniority, continuity of service and further treat the suspension period of the Applicant has spent on duty for all intents and purposes. And
- (c) Call for the medical/re-medical report qua the Applicant conducted at Dr.RML Hospital at the instant of the Appellate Authority. And
- (d) Award cost in favor of the Applicant and against the respondents. And/or
- (e) Pass any further order, which this Hon'ble Tribunal may deem fit, just equitable in the facts and circumstances of the case."

3. The relevant facts of the case are that a departmental enquiry was initiated against the applicant for issuing verification report



with respect to some passport applicants without verifying the address and without verifying the authenticity of the documents produced with respect to the addresses. The detailed summary of allegation is extracted below:-

"It is alleged against you SI Som Dutt, No. 4605/D North Zone, S.B (PIS No. 28780208) while posted in North Zone of Special Branch. You conducted passport verification in respect of Davinder Singh s/o Jai Singh r/o L-2/4 B, Shastri Nagar, Delhi (File No. DL-106942757041), dated 9.12.15 and Jasmeet Karu w/o Davinder Singh r/o L-2/4 B, Shastri Nagar, Delhi (File No. DL-106942757041), dated 8.12.15 applied for a fresh passport showing the residential address as r/o L-2/4 B, Shastri Nagar, Delhi. Verification of both the applicant was sent as "Not recommended" by you E.O SI Som Dutt above on grounds that the applicant were out of station. (1) Davinder Singh again applied for the passport vide file No. (DL 2069453183415) dated 14.12.15 after changing his father's name, mother's name and spouse name on the same address. His wife (2) Jasmeet Kaur also applied again for passport vide file No. (DL 2069452731015) after changing her name as Jasleen Kaur. She also changed her father's and other's name with the same address. During Vigilance enquiry statement of Sh. Daal Chand Sharma s/o Sh. Satya Prakash Sharma r/o L-2/4, Shastri Nagar, Delhi was recorded, who stated that no such address exists in the locality. You E.O SI Som Dutt gave clear verification report of both these applicants namely Davinder Singh and Jasmeet Kaur knowingly that address was non-existent. Both these passports were also delivered to one known of the applicant Davinder Singh and Jasleen Kaur in the post office by the Postman Maneesh Kumar of Ashok Vihar post office. The statement of postman Maneesh Kumar was also recorded in this regard (3) Kulwinder Singh s/o Kulwant Singh r/o B-1513 Shastri Nagar Delhi, file No. (DL-1069303662615) dated 27.10.15 (4) Simardeep Singh



s/o Kulwinder Singh r/o B-1513, Shastri Nagar Delhi file No.(DL-1069305107615) dated 27.10.15, (5) Harpreet Kaur w/o Kulwinder Singh r/o B-1513, Shastri Nagar, Delhi file No. (DL-1069303662615) dated 11.12.15, also applied for fresh passport at the given address and a clear verification report was sent by you E.O SI Som Dutt above without making proper physical verification at the spot as these persons have never resided at the given address and their documents were also found to be fake. Both these passports have also been delivered to the applicants in the post office, but passport of Harpreet Kaur has been put on Hold in the RPO office.

A Vigilance enquiry was conducted into the matter and it was revealed that all the above applicants have been able to get their passport issued on forged documents and on fake addresses. You SI Som Dutt, No.4605/D, North Zone, S.B. has given clear verification reports of all these applicants without proper verification if residential addresses given by the applicants, obviously, with malafide intentions and ulterior motives. It is also surprising that SI Som Dutt, No. 4605/D within a period of mere fifteen days gave two contradictory reports about the same persons namely Davinder Singh and Jasmeet Kaur.

The above act on the part of you SI Som Dutt, No. 4605/D North Zone, SB (PIS No. 28780208) amounts to gross negligence, questionable conduct, dereliction in discharge of your official duty and highly unbecoming of a police officer for which you are liable to be dealt with departmentally under the provision of Delhi Police (Punishment & Appeal) Rules, 1980.”

4. Along with the summary of allegation, list of witnesses and list of documents were served on the applicant. As the applicant did not admit the allegation, an Inquiry Officer was appointed. The Inquiry Officer following the principles of natural justice and the



rules governing the holding of the departmental enquiry examined PW-1 to PW-8 and took on record the defence statement filed by the applicant and accordingly framed the chargesheet and analyzed and discussed the evidence and came to the conclusion that the charge leveled against the applicant was proved to the extent of recommending Police Verification Reports (PVRs) of the concerned people without proper verification of their residential addresses and he further held that malafide or ulterior motive was not established vide his inquiry report dated 3.06.2016. The relevant portion para of the discussion and finding is extracted below:-

“During the course of departmental enquiry 8 PWs have been examined in support of the charge. All the PWs are independent and reliable witnesses. PW-1 Sh. Daal Chand Sharma s/o Sh. Satya Prakash Sharma r/o L-2/4, Shastri Nagar, Delhi confirmed that there is no house bearing No. L-2/4-B and the applicants namely Devender Singh s/o Jai Singh and Jasmeet Kaur w/o Devender Singh never resided in his house. However, he admitted that he had seen a Sikh family sitting in the car near his house and SI Som Dutt was taking with them. PW-2 Smt. Raj Rani w/o Sh. Rajender Singh r/o B-1513, Shastri Nagar, Delhi confirmed the applicants namely Kulvinder Singh and boy Simardeep never resided in her house as tenant or in any other capacity. There is no house bearing H.No. B-1513 other then her house but there is another H. No. B-1513/1. PW-3 Sh. Manish s/o Sh. Dhanpat Singh r/o H.No.418, Bajitpur Thakran, Delhi and PW-4 Sh. Tejbir s/o Sh. Samay Singh r/o D-683, Jahangir Puri, Delhi are not much relevant witness and they deposed that they delivered



the passports of the applicants in the Post Office itself after seeking the I.D. proof, which was although contrary to the instructions. They denied any role of the delinquent in the delivery of the passport. PW-5 HC Mahesh Chand No. 126/SB, Reader North Zone, Spl. Br. Delhi deposed that the delinquent was entrusted with the PVRs of the applicants. This fact has not been disputed by the delinquent. However, he deposed that a period of 21 days has been fixed for the E.Os to complete the PVR and in case of failure, they are subjected to disciplinary action. He also admitted that the delinquent was entrusted with the PVRs of the two heavy Police Stations Gulabi Bagh and Sarai Rohilla, whereas one SI for each police station was being detailed in the past. PW-6 SI Parkash Chandra No.5111/D, Vig. Special Branch deposed about the enquiry conducted by him and confirmed that during the enquiry conducted by him, no evidence suggesting any ulterior motive came to notice. PW-7 HC (Min.) Ajeet No. 18/SB, deposed about the posting of the delinquent in North Zone, Special Branch. He also deposed that there was shortage of staff in North Zone and a request for providing additional staff was received from Insp. Zone on 05.01.2016. PW-7 Insp. Lakshmi Debey No. D-1/536, Spl. Branch, Delhi deposed that during the course of cross checking of PP forms, she noticed that some PP forms were wrongly recommended by the delinquent. It also came to her notice that two applicants namely Davinder Singh and Jasleen Kaur had applied for passport twice with different particulars from different PSK. Once their forms were rejected but next time these were recommended. Other three applicants were not found residing at the given address. She submitted a detailed report in this regard on 28.01.2016 to senior officers. However, she also admitted that delinquent SI Som Dutt worked with her for about one year and no complaint involving his integrity etc. was received. She admitted that the delinquent was entrusted with the work of two police stations and an E.O have to complete the passport verification within a period and an E.O have to complete the passport verification within a period of 21 days else disciplinary action is initiated against the concerned



E.O. She also admitted that there was acute shortage of staff in Dec. 2015 and Jan 2016 in North Zone and she had informed the Sr. Officers in writing as well as verbally in person but no staff was provided. There is no evidence on record to suggest mala-fide intention or ulterior motive on the part of the delinquent. It has also been established from the deposition of the PWs that there was shortage of staff in North Zone for which request was moved but not staff was provided and the delinquent had been entrusted with the work of two police stations. It has also been reported by RPO Delhi that the all passports in question were recommended to the foreigners. The report was also obtained from FRRO regarding arrival and departure record of all the persons i.e. Kulvinder Singh, Simran Deep Singh, Davinder Singh and Jasleen Kaur. It was reportedly by FRRO that there is no record of arrival and departure of these persons.

#### Conclusion

After carefully going through the statement of the PWs, evidence on record, defence statement of the delinquent and in view of above discussion I am of the opinion that the charge framed against delinquent SI Som Dutt No. 4605/D (Now-D-2874) stand proved to the extent that he recommended the PVRS of Devender Singh, Jasleen Kaur, Kulvinder Singh and Simardeep Singh without proper verification of their residence. The applicants never resided at the given addresses. On the basis of material available on the record no malafide intention or ulterior motive could be established on his part."

5. The inquiry report was served on the applicant. The applicant submitted representation against the inquiry report. The disciplinary authority after carefully considering the deposition of the witnesses and all the documents and taking into account the representation filed by the applicant and hearing the applicant in the orderly room



on 06.09.2016 imposed a penalty of dismissal with immediate effect on the applicant vide order dated 22.09.2016. The applicant filed an appeal. The appellate authority also after considering the entire evidence and taking into account the grounds raised by the applicant and also hearing the applicant in orderly room on 28.11.2017 rejected the appeal by a reasoned and speaking order vide order dated 15.01.2018.

6. The counsel for the applicant vehemently and strenuously submitted that the applicant has put in more than 40 years of unblemished service and he further submitted that though the inquiry officer has held that the Charge levelled against the applicant is established but the findings of the inquiry officer regarding motive or malafide aspect of the matter was held to be taken to be proved by the disciplinary authority in his order dated 22.09.2016 without issuing disagreement note. He further submitted that there was preliminary enquiry in this matter and without complying with Rule 15(2) of the Delhi Police (Punishment & Appeal) Rules, 1980, this departmental enquiry was held. On the above grounds the counsel for the applicant submitted that the entire enquiry is vitiated and the inquiry report and the orders passed by the disciplinary authority and appellate authority be set aside. The counsel for the applicant further



submitted that in several similar cases the penalty imposed is either 'censure' or minor penalties' whereas in the case of the applicant a major penalty of dismissal has been imposed and as such it is shockingly disproportionate to the allegation proved against the applicant. In support of his above said contentions he relied upon the law laid down in the following cases by the Hon'ble Supreme Court, Hon'ble High Court and of this Tribunal:-

- (1) **Punjab National Bank and Others Vs. Kunj Behari Misra** (1998) 7 SCC 84).
- (2) **Yoginath D.Badge Vs. State of Maharashtra and another** (1999) 7 SCC 739).
- (3) **Vijay Singh Vs. Union of India and Others** ( 2007) 9 SCC 63).
- (4) **Sunil Kumar Vs. Union of India and Ors.**(WP (C) 3810/2016- Delhi High Court)
- (5) **Ex.Asstt. Sub Inspector Anoop Singh Vs. Secretary, MHA and others- CAT (PB) OA 1337/2001)**

7. The counsel for the respondents equally vehemently submitted that there is no preliminary enquiry as contemplated under Rule 15 of the above said Rules and a simple vigilance enquiry ordered by the disciplinary authority and hence there is no requirement of following Rule 15(2) of the above said Rules. She further submitted that the charge



leveled against the applicant is established in the departmental enquiry though the malafide or motive portion of it is held to be not established by the inquiry officer and in the facts and circumstances of the case the motive or the malafide in the said established misconduct does not have great relevance and this aspect is also considered by the disciplinary authority. Apart from the above, the counsel for the applicant has not pointed out any violation of the principles of natural justice or violation of the rules governing the holding of the departmental enquiry in so far as the inquiry report is concerned. The counsel for the respondents further submits that in view of the facts and circumstances of this case, the punishment imposed on the applicant is not shockingly disproportionate to misconduct which is proved against him.

8. We have gone through the inquiry report and the orders passed by the disciplinary authority and the appellate authority. In view of there being no formal preliminary enquiry as envisaged under Rule 15 of the said rules, we are of the view that the inquiry report cannot be interfered with and the orders passed by the disciplinary and appellate



authorities are well reasoned and detailed speaking orders, in view of the submissions of the counsel for the respondents it cannot be held that it is a case of disagreement regarding there being mala fide or motive on the part of applicant and in the facts and circumstances of this case we are of the view that the penalty imposed is shockingly disproportionate and the law laid down by the Courts relied on by the counsel for the applicant are not applicable in the facts and circumstances of this case.

9. That more over law relating to judicial review by the Tribunal in the departmental enquiries has been laid down by the Hon'ble Supreme Court in the following judgments:

(1). In the case of **K.L.Shinde Vs. State of Mysore** (1976) 3 SCC 76), the Hon'ble Supreme Court in para 9 observed as under:-

"9. Regarding the appellant's contention that there was no evidence to substantiate the charge against him, it may be observed that neither the High Court nor this Court can re-examine and re-assess the evidence in writ proceedings. Whether or not there is sufficient evidence against a delinquent to justify his dismissal from service is a matter on which this Court cannot embark. It may also be observed that departmental proceedings do not stand on the same footing as criminal prosecutions in which high degree of proof is required. It is true that in the instant case reliance was placed by the Superintendent of Police on the earlier statements made by the three police constables including Akki from which they resiled but that



did not vitiate the enquiry or the impugned order of dismissal, as departmental proceedings are not governed by strict rules of evidence as contained in the Evidence Act. That apart, as already stated, copies of the statements made by these constables were furnished to the appellant and he cross-examined all of them with the help of the police friend provided to him. It is also significant that Akki admitted in the course of his statement that he did make the former statement before P. S. I. Khada-bazar police station, Belgaum, on November 21, 1961 (which revealed appellant's complicity in the smuggling activity) but when asked to explain as to why he made that statement, he expressed his inability to do so. The present case is, in our opinion, covered by a decision of this Court in State of Mysore v. Shivabasappa, (1963) 2 SCR 943=AIR 1963 SC 375 where it was held as follows:-

"Domestic tribunals exercising quasi-judicial functions are not courts and therefore, they are not bound to follow the procedure prescribed for trial of actions in courts nor are they bound by strict rules of evidence. They can, unlike courts, obtain all information material for the points under enquiry from all sources, and through all channels, without being fettered by rules and procedure which govern proceedings in court. The only obligation which the law casts on them is that they should not act on any information which they may receive unless they put it to the party against who it is to be used and give him a fair opportunity to explain it. What is a fair opportunity must depend on the facts and circumstances of each case, but where such an opportunity has been given, the proceedings are not open to attack on the ground that the enquiry was not conducted in accordance with the procedure followed in courts.



2. In respect of taking the evidence in an enquiry before such tribunal, the person against whom a charge is made should know the evidence which is given against him, so that he might be in a position to give his explanation. When the evidence is oral, normally the explanation of the witness will in its entirety, take place before the party charged who will have full opportunity of cross-examining him. The position is the same when a witness is called, the statement given previously by him behind the back of the party is put to him, and admitted in evidence, a copy thereof is given to the party and he is given an opportunity to cross-examine him. To require in that case that the contents of the previous statement should be repeated by the witness word by word and sentence by sentence, is to insist on bare technicalities and rules of natural justice are matters not of form but of substance. They are sufficiently complied with when previous statements given by witnesses are read over to them, marked on their admission, copies thereof given to the person charged and he is given an opportunity to cross-examine them."

Again in the case of **B.C.Chaturvedi Vs. UOI & Others** (AIR 1996 SC 484) at para 12 and 13, the Hon'ble Supreme Court observed as under:-

"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in eye of the Court. When an inquiry is conducted on charges of a misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice be complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold



inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. ***Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding.*** When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent office is guilty of the charge. The Court/Tribunal on its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at the own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has co-extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In *Union of India v. H. C. Goel* (1964) 4 SCR 718 : (AIR 1964 SC 364), this Court held at page 728 (of SCR): (at p 369 of AIR), that if the conclusion, upon consideration of the evidence, reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued".

Recently in the case of **Union of India and Others Vs. P.Gunasekaran** (2015(2) SCC 610), the Hon'ble Supreme Court has observed as under:-



"Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge no. I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under [Article 226/227](#) of the Constitution of India, shall not venture into re- appreciation of the evidence. The High Court can only see whether:

- a. the enquiry is held by a competent authority;
- b. the enquiry is held according to the procedure prescribed in that behalf;
- c. there is violation of the principles of natural justice in conducting the proceedings;
- d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;
- e. the authorities have allowed themselves to be influenced by irrelevant or extraneous consideration;
- f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no unreasonable person could ever have arrived at such conclusion;
- g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;
- h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
- i. the finding of fact is based on no evidence."

In the latest judgment in the case of **The State of Bihar & Ors Vs. Phulpuri Kumari** (Civil Appeal No. 8782/2019), the Hon'ble Supreme Court has observed as under:-



"The learned Single Judge and the Division Bench of the High Court committed an error in re-appreciating the evidence and coming to a conclusion that the evidence on record was not sufficient to point to the guilt of the Respondent. It is settled law that interference with the orders passed pursuant to a departmental inquiry can be only in case of 'no evidence'. Sufficiency of evidence is not within the realm of judicial review. The standard of proof as required in a criminal trial is not the same in a departmental inquiry. Strict rules of evidence are to be followed by the criminal court where the guilt of the accused has to be proved beyond reasonable doubt. On the other hand, preponderance of probabilities is the test adopted in finding the delinquent guilty of the charge. The High Court ought not to have interfered with the order of dismissal of the Respondent by re-examining the evidence and taking a view different from that of the disciplinary authority which was based on the findings of the Inquiry Officer."

10. In view of the facts of the case narrated above and in view of the law laid down by Hon'ble Apex Court referred to above and in view of the fact that the counsel for the applicant has not brought to our notice violation of any procedural rules or principles of natural justice in holding the departmental enquiry and also as in the peculiar facts and circumstances of the case the punishment is not shockingly disproportionate, the OA requires to be dismissed.

11. Accordingly, OA is dismissed. No order as to costs.

**(Mohd.Jamshed)**  
**Member (A)**

**(S.N. Terdal)**  
**Member (J)**

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