



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.2633/2014

Order reserved on 7th January 2020

Order pronounced on 23rd January 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Harvinder Singh,
s/o Shri Harbans Singh, age 48,
Designation HC
r/o Quarter No.81, Police Colony
Ashok Vihar, Delhi

(Dr. Ashwani Bhardwaj, Advocate)

..Applicant

Versus

1. Commissioner of Police, Delhi
IP Estate, New Delhi
2. The Addl. Commissioner of Police
IP Estate, New Delhi
3. The Addl. Dy. Commissioner of Police (GA)
Police Control Room, New Delhi

..Respondents

(Mr. Prashant Bhardwaj, Advocate for Ms. P K Gupta,
Advocate)

ORDER

Justice L. Narasimha Reddy:

The applicant was working as Head Constable in Delhi Police in the year 2012. Disciplinary proceedings were initiated against him, through order dated 26.03.2012 issued by the Additional Deputy Commissioner of Police (GA), the 3rd



respondent herein. The allegation against the applicant was that an FIR No.130/2010 was registered under Sections 4, 5 & 6 of Explosive Substance Act in P.S. Karol Bagh on 02.12.2010 against Lok Nath Pant and others, and during the course of investigation, the said Lok Nath Pant stated that he procured the explosive substance from Purshotam Lal Mehta of Bhiwani District, Haryana. It is stated that Purshotam Lal Mehta was evading his arrest and was declared as proclaimed offender and that the applicant met Ish Kumar Mehta s/o Purshotam Lal Mehta through their common relative at Sirsa, Haryana and deceived Ish Kumar Mehta by stating that he would get the case FIR No.130/2010 dated 02.12.2010 transferred to his own unit of Crime Branch and ensured that the name of Purshotam Lal Mehta is deleted from the case, and for that purpose, he collected a sum of ₹7 lacs on two different occasions, i.e., two installments of ₹2 lacs & ₹5 lacs, and thereby cheated the said individual. Ish Kumar Mehta and his uncle Narender Mehta are said to have recorded the conversation between them and the applicant in their cell phone; and made available the same in the form of a CD, to the investigating officer. With this allegation, the proceedings were initiated against the applicant.

2. The Inquiry Officer was appointed and he, in turn, framed the summary of allegations against the applicant. Thereafter, the evidence was recorded and the applicant has put his defence



through letter dated 27.02.2013. The Inquiry Officer held the charge against the applicant as fully proved. Taking the same into account, the Disciplinary Authority passed an order dated 26.06.2013 dismissing the applicant from service with immediate effect. Appeal preferred by him was rejected, through a detailed order dated 24.04.2014.

This O.A. is filed challenging the order dated 26.03.2012, report of the Inquiry Officer dated 22.03.2013, order of punishment dated 26.06.2013 and order of Appellate Authority dated 24.04.2014.

3. The applicant contends that the allegation made against him was not only untrue but also was vague and without any substance. He contends that the sole basis for initiation of the disciplinary proceedings against him was so-called statement made by one of the accused and the same ought to have been dealt with in careful and cautious manner. He submits that no proof whatever was placed in the course of inquiry and still the charge was held as proved. He contends that the punishment imposed against him is too harsh and has not only deprived him of the benefit of his unblemished service, spread over to two decades, but also affected the entire livelihood.

4. On behalf of the respondents, a detailed counter affidavit is filed opposing the O.A. It is stated that the allegations leveled



against the applicant are very serious in nature and accordingly, an order was issued initiating disciplinary proceedings. It is stated that a detailed inquiry was conducted duly giving adequate opportunity to the applicant at every stage.

5. The respondents contend that in the departmental inquiry, the investigating officer in the criminal case was examined as a witness and nothing contradictory was elicited by the applicant from the said witness. They also contend that the Disciplinary Authority has considered the entire record and the punishment was imposed duly taking into account, the gravity of the charge proved against the applicant.

6. We heard the extensive arguments advanced by Dr. Ashwani Bhardwaj, learned counsel for applicant, touching on various aspects and raised in the O.A., and the arguments of Mr. Prashant Bhardwaj for Ms. Pritma Gupta, learned counsel for respondents, at length.

7. At the relevant point of time, the applicant was working as Head Constable in Delhi Police and he seems to have been attached to Crime Branch. For the establishment of Delhi Police, the procedure for conducting of disciplinary proceedings is somewhat different. The proceedings commence with the passing of an order indicating the nature of allegations. After recording of oral and documentary evidence, the Inquiry Officer



frames the charges. The delinquent employee is given opportunity to defend his case. Ultimately, he submits a report, taking into account, the evidence on record and the defence pleaded by the applicant.

8. The proceedings against the applicant were initiated, through order dated 26.03.2012. First paragraph thereof provides the gist of the allegations, which reads:-

“It is alleged against HC Harvinder Singh, No.1615/PCR (PIS No.28851176) that two accused persons namely Lok Nath Pant and Khem Prasad @ Raju both resident of Nepal were arrested vide case FIR No.130/2010 dated 02-12-2010, u/s 4/5/6 Explosive Substance Act, P.S. Karol Bagh, Delhi and 498 detonators and 29 meters of safety fuse wire were recovered from the possession of Lok Nath Pant. During the course of investigation of the case, Lok Nath Pant disclosed that he had procured the said explosive substance from one Purshotam Lal Mehta r/o Village and P.O. Tosham, Distt. Bhiwani, Haryana. Purshotam Lal Mehra was evading his arrest and was declared Proclaimed Offender by the Court. During the said period, HC Harvinder Singh, No.1615/PCR met Sh. Ish Kumar Mehta s/o Purshotam lal Mehra and his uncle Narender Kumar Mehta through their common relative at Sirsa, Haryana where he deceived Mr. Ish Kumar Mehta by mispresenting the facts that he would get case FIR No.130/2010 dated 02.12.2010 u/s 4/5/6 Explosive Substance Act transferred to his own unit of Crime Branch and get removed the name of Mr. Purshotam Lal Mehta from the case. By adopting fraudulent means, HC Harvinder Singh induced the complainant party to part with Rs.08 lacks on two different occasions i.e. (Rs. 2 lacks at 1st time and Rs. 5 lacks at 2nd time) thereby causing wrongful loss to the complainant party and wrongful gain to himself. When he further contacted Sh. Ish Kumar Mehta and his uncle Narender Mehta at Sirsa Haryana on 27-5-2011, at that time they recorded all the conversation between them and Harvinder Singh in their cell phone. They converted the said conversation in the CD and produced the same before the I.O. of the above said case. In this way, HC Harvinder Singh deceived and



induced the complainant party to deliver Rs.7 lacks to his person and further, he had also threatened the complainant party not to ask to return the said money otherwise they will have to face serious consequences. Further, he has neither joined the investigation in case FIR No.130/2010 PS Karol Bagh, Delhi pending investigation with Special Staff of Central Distt. Delhi nor attended the enquiry on the same subject in the Vigilance Branch / PCR, inspite of repeated summons.”

9. The gist of the allegation against the applicant is that he collected a sum of ₹7 lacs from Ish Kumar Mehta and his uncle Narender Kumar, by promising to get the name of Purshotam Lal Mehta deleted from the list of accused in FIR No.130/2010. The applicant, no doubt, denied the charge. In the course of inquiry, Ish Kumar Mehta was examined as a witness. He gave a detailed account of what has transpired between him and the applicant herein. He stated that one of his relative by name Anil at Sirsa, told him that his relative by name Harvinder (applicant) is an employee of Delhi Police and would be of much help in the case registered against Purshotam Lal Mehta. A detailed account of what transpired between the applicant and himself was furnished. The Inquiry Officer recorded the relevant portion as under:-

“..... PW further deposed that as he and family were extremely frightened, they made a payment of Rs.2 Lac to the Harvinder on the same day. After about gap a five days Harvinder called his uncle on his Mob. Informing that the case had already been transferred to Rohini Spl. Staff and that they may verify this fact. On the vary next day he went to the court of Sh. Ajay Garg, MM, Room No.341, Tis Hazari Court, where the Naib Court told that the case had been transferred in the court of Sh. Vinod



Yadav and he came back to Sirsa. Thereafter he talked to Harvinder regarding the transfer of the case, on which Harvinder told him that he has a setting with the present investigating team and he will be coming to Sirsa within next 5/7 days to discuss further course of action. In the last days of January, Harvinder came to Sirsa and told the PW that the existing Police team investigating the case has demanded an amount of Rs.30 lac for finally removing the name of his father from the case. PW further deposed that, on hearing this his uncle said that this amount was too much and that they will have to sell all the belongings to arrange for such a big amount.

10. The applicant is said to have demanded ₹20 lacs for removing the name of Purshotam Lal Mehta from the criminal case and ultimately, agreed for the figure of ₹10 lacs.
11. The witnesses are said to have made an advance payment of ₹5 lacs by selling a truck and car. It is only when the version presented by the applicant was found to be totally incorrect, that they submitted the complaint against the applicant.
12. It is true that the version presented by a person, who figured as an accused in the criminal case, needs to be examined with care and caution. In the instant case, however, the complainant has made available the recorded conversation between him and the applicant. Though the applicant has cross examined him extensively, he was not able to elicit anything contrary. The result of the cross examination is furnished by the Inquiry Officer as under:

“The evidence recorded during enquiry proceedings and the points raised in the written defence statement have



carefully been given due thought. In their statement the PWs (Public witnesses, IO and Vigilance EO) have fully corroborated the earlier statements and despite extremely lengthy cross examinations of each PW, the delinquent could not extract any contradiction in their statements. In their statements the public witnesses repeatedly emphasized on the allegations of the delinquent having extorted a sum of Rs.7 lacs from them and there was no contradiction in their statements or during cross examination. Furthermore, the report of SI Yogender Kumar/IO and the report of ACP/Operation/Central Distt. who had made the initial enquiry in the complaint of Sh. Ish Kr. Mehta have also corroborated the allegations of extortion against the delinquent. The conduct of the delinquent of not joining the enquiry after being repeatedly summoned by ACP/Ops./Central Distt. and Enquiry Officer of PCR Vigilance proves that his conduct is not above board and there was no explanation whatsoever to explain his conduct of not joining the enquiries/investigation. During the conduct of proceeding he was given ample opportunity to engage a defence assistant but despite repeated instructions verbally as well as writing, he did not engage any defence assistant and moved various applications before the disciplinary authority, alleging therein that his request for appointing defence assistant was not considered by the EO. Right from the beginning of the proceedings he kept on moving one application or the other, simply to delay the proceedings but all his applications and points raised by him regarding the provisions of standing order No.A-20 and relevant rules of Delhi Police (Punishment & Appeal) Rules 1980 were replied in writing and conveyed to him from time to time. On his applications dt. 12.10.12 and 20.10.12 the disciplinary authority had sought the comments of the undersigned and after the perusal of the same, the disciplinary authority had passed his orders to let the DE be continued by the undersigned on the specific charge against him.

The contentions put forth by the delinquent in his lengthy written defence statement have nowhere been able to contradict the charge leveled against him and all the PWs have corroborated their statement and could not be contradicted by the delinquent.”

13. Similarly, the person, who mediated between the applicant and Ish Kumar Mehta, i.e., was Narender Kumar, was



examined as PW-4. His evidence and that of Ish Kumar Mehta was consistent. The applicant was not able to elicit anything contrary. The result is that the charge was held proved. The evidence of the investigating officer also was consistent and to the point.

14. The applicant is not able to point out any procedural or factual error in the proceedings. It is fairly well settled that the findings of the Inquiry Officer in the disciplinary proceedings cannot be analyzed by the Tribunal or a Court, as though it is criminal case. What is required to be verified is whether the findings are based on no evidence. The standard of proof required in such cases is substantially different from the one, which is stipulated for criminal cases. For all practical purposes, the inquiry in this case was conducted as though it is criminal case and the witnesses were consistent throughout.

15. The charge framed against the applicant is to the effect that he demanded and collected ₹7 lacs from a person with the promise that he would ensure that the name of a principal accused in the criminal case is deleted. There cannot be a better instance of an act of indiscipline on the part of the police official than this. The charge discloses that the applicant demanded and collected illegal gratification to delete the name of Purshotam Lal Mehta from criminal case. Such a person does not have any place in a disciplined force, like Police.



16. The Disciplinary Authority has taken into account, the report of the Inquiry Officer as well as defence submitted by the applicant and has arrived at his own conclusion. It is a rare case in which the Appellate Authority has discussed every point raised by the applicant, in detail and was satisfied that no interference is warranted.

17. We do not find any merit in this O.A. It is accordingly dismissed.

There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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