

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1114/2001

New Delhi, this the 30th day of July, 2002

HON'BLE MR. KULDIP SINGH, MEMBER (J)
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

Const. Ram Prakash,
1938/SD (PIS 28912010)
S/o Shri Ved Pal,
R/o RZB-57, Old Roshanpura,
Najafgarh, New Delhi

... Applicant

(By Advocate : Shri Shyam Babu)

Versus

1. Govt. of NCT Delhi through its
Chief Secretary,
5, Sham Nath Marg,
Delhi
2. Joint Commissioner of Police,
(Southern Range)
Police Headquarters
I.P. Estate,
New Delhi
3. Dy. Commissioner of Police,
(South District),
PS Hauz Khas,
New Delhi

... Respondents

(By Advocate : Shri Ram Kavar)

O R D E R

By S.A.T. Rizvi, Member (A) :

On the basis of the following charge levelled against the applicant, he has been tried departmentally and a major penalty has been imposed on him vide disciplinary authority's order dated 28.12.1999
(Annexure-A):-

"When search for Rajesh was going on, Const. Ram Prakash, 1978/SD beat Gyan Prasad with a DANDA on his head who sustained injuries. Gyan Prasad who was brought to PS along with others, was

medically examined through HC Gopi Chand. 879/SD at AIIMS. Although Gyan Prasad was beaten by Const. Ram Prakash but H.C. Gopi Chand prepared 'Naksha Majroobi' writing that the injured sustained the injuries during quarrel at Jhugi, I.G. Camp, Lodhi Colony. The HC also recorded the statement of injured that he sustained injuries when trying to settle the quarrel at Jhuggies. He even did not attest the statement of Gyan Prasad and recorded in DD No. 106-B that injured Gyan Prasad had given in writing that he did not want any action.

The above action on the part of HC Gopi Chand No. 879/SD & Const. Ram Prakash, 1978/SD amounts to grave misconduct, negligence and dereliction of duty which renders them liable for departmental action punishable under the provisions of Delhi Police (P&A) Rules, 1980."

Thereafter, the departmental appeal filed by the applicant was rejected by the appellate authority vide his order dated 14.11.2000. The inquiring authority appointed in these proceedings had earlier submitted his report on 17.9.1999 (A-I). The aforesaid report and the aforesaid order passed by the appellate authority are under challenge in this OA.

2. The learned counsel appearing on behalf of the applicant has submitted that there is no evidence to sustain the charge against the applicant. He has also relied on rule 15 (3) of Delhi Police (Punishment and Appeal) Rules, 1980 to submit that the preliminary enquiry could not be brought on the departmental record relating to the disciplinary proceedings. Yet another contention raised was with regard to non-production/supply of the MLC. The fourth issue raised by him was in relation to the nature of punishment inflicted on the applicant. The learned counsel

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submitted that the penalty imposed was in the nature of double punishment *and was therefore illegal.*

3. We have considered the submissions made by the learned counsel on either side and have also perused the pleadings on record. With the assistance of the learned counsel for the applicant we have, without attempting to reappraise the evidence, traversed the relevant portions of the inquiring authority's report so as to ascertain whether the present case is one of no evidence. The learned counsel in particular drew our attention to the statements made by PW-4 (injured person) and PW-8, who is a Probationary Sub Inspector (PSI). From the statements made during the course of the enquiry, we find that the injured person (Shri Gyan Prasad) had categorically asserted that he was beaten up by a Police-man without any reason and taken to the Police Station. At the time, there were a number of Police men and, therefore, he was not quite sure about the Police-man who caused injuries to him. For the same reason, in his written complaint also he has not named anyone in this context. PW-8 (PSI Pradeep Rawat) has, on the other hand, equally categorically *asserted* ~~asserted~~ that it was the applicant alone who had a 'Danda' in his hand and it was he who had beaten up the injured person (Gyan Prasad). At the same time, PW-10, who is an ACP, has also deposed that during the preliminary enquiry he found *that* ~~that~~ the applicant was guilty of beating the injured person and that the Head Constable (Gopi-Chand) had ~~mis-~~ ^{mis-} ~~represented~~ represented the facts. The evidence of any of the other PWs examined during the enquiry does not support the applicant's version that he

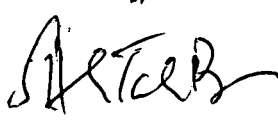
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did not beat the injured person. The applicant has not examined any defence witness. He had the liberty to cross-examine any of the prosecution witnesses.

4. The learned counsel for the applicant's plea based on rule 15 (3) of the Delhi Police (Punishment & Appeal) Rules, 1980 cannot be sustained for the simple reason that a copy of the preliminary enquiry's report was supplied to the applicant along with the other documents. According to the aforesaid rule, any document forming part of the preliminary enquiry can be relied upon after supplying a copy of it to the charged official. In the present case, the preliminary enquiry report had been supplied to the applicant in full. The MLC was produced and shown during the enquiry proceedings and, therefore, the plea advanced in regard to non-production of MLC is also found to be untenable. In regard to the aspect of double punishment, the position has been settled by a judgement of the Full Bench of this Tribunal. Accordingly, the penalty imposed on the applicant is in order and ^{is} legally valid.

5. For the reasons brought out in the preceding paragraphs, the OA is found by us to be devoid of merit and is dismissed. There shall, however, be no order as to costs.


(S.A.T. RIZVI)
Member (A)


(KULDIP SINGH)
Member (J)

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