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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1145/2001

New Delhi this the 7th day of February, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI V.K. MAJOTRA, MEMBER (A)

HC Bal Kishan No.370/PCR
Qtr. No.12/L, Police Colony
Model Town
Delhi.

... Applicant

(By Shri Bhaskar Bhardwaj, Advocate)

vs.

1. Union of India
Through the Commissioner of Police
IP Estate, PHQ
New Delhi-110 002.

2. Additional Commissioner of Police
PCR & Communication
Police Headquarters
M.S.O. Building, I.P. Estate
New Delhi-110002.

3. Addl. Deputy Commissioner of Police
Police Control Room
PHQ
Delhi.

..... Respondents

(By Shri Harvir Singh, Advocate)

O R D E R (ORAL)

Justice V.S. Aggarwal:-

Applicant, Constable Bal Singh, by virtue of the present application seeks quashing of the order of the disciplinary authority whereby he was dismissed from service as well the order of the appellate authority whereby, the punishment was modified to that of reduction in rank.

V.S. Aggarwal

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2. Some of the relevant facts in this regard are that the applicant was facing departmental proceedings on the allegation that while posted in North-West Zone/PCR on 6.3.2000 at about 1.30 P.M., he along with others stopped one Ravinder Kumar who was learning car driving in the car of his friend. One Shri Ram Avtar, a friend of Shri Ravinder Kumar was also with him. The applicant and others had asked for the papers of the car which were found complete and correct. Thereafter they asked for the driving licence but both of them had no driving licence and told them that they were learning driving. The applicant along with others slapped and man-handled them and asked for illegal gratification and threatened to impound the car. The matter was settled when Rs.200- were paid to them. Later on, Shri Ravinder Kumar submitted a complaint to Shri Sultan Singh, Municipal Councillor, Mangol Puri. On 8.3.2000, the applicant had gone to the house of Ram Avtar and returned Rs.200/-. He also requested that the complaint should be withdrawn. The applicant after persuading Ravinder Kumar brought him to the office of Inspector/Admin. North West Zone/PCR to get his statement recorded. Ravinder Kumar requested to Shri S.K. Bassi, Inspector to close down the enquiry because he had already received the money back. It is on these assertions that it was alleged that the applicant and others had extorted money and returned the same after a complaint was made.

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3. A departmental enquiry was held and the findings were against the applicant. The disciplinary authority had inflicted a punishment of dismissal from service upon the applicant. In appeal, the order as such was modified.

4. Without delving into the merits of the matter, the learned counsel for the applicant asserted that the departmental proceedings had been initiated without the approval of the Additional Commissioner of Police as to whether a criminal case should be registered and investigated or a departmental enquiry should be held. The learned counsel for the applicant pressed into service sub-rule (2) to Rule 15 of the Delhi Police (Punishment and Appeal) Rules, 1980 which reads:-

"15. Preliminary enquiries-

(2) In cases in which a preliminary enquiry discloses the commission of a cognizable offence by a police officer of subordinate rank in his official relations with the public, departmental enquiry shall be ordered after obtaining prior approval of the Additional Commissioner of Police concerned as to whether a criminal case should be registered and investigated or a departmental enquiry should be held."

Perusal of sub-rule(2) to Rule 15 clearly show that the necessary ingredients are that (1) there should be a preliminary enquiry which discloses the commission of a cognizable offence by a police

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officer; (2) it should pertain to his official relations with the public; (3) there should be an order by the Additional Commissioner of Police concerned as to whether a criminal case should be registered and investigated or a departmental enquiry should be held.

5. Admittedly, in the present case, there is no approval of the Additional Commissioner of Police. Our attention has not even been drawn to any order purported to have been passed by the Additional Commissioner of Police in this regard.

6. Even the co-delinquent Suresh Kumar had filed OA No.1818/2001 which was decided on 18.7.2002 by this Tribunal. A similar plea found favour with this Tribunal and the matter was remitted to the disciplinary authority for holding a fresh enquiry after obtaining the approval of the Additional Commissioner of Police required under sub-rule (2) to Rule 15 of the Delhi Police (Punishment & Appeal) Rules, 1980.

7. Identical is the position herein. We find no reason to take a different view.

8. Accordingly, we allow the present application and quash the impugned orders. The case is remitted to the appropriate disciplinary

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authority who may, if deemed appropriate, start disciplinary proceedings afresh after the approval of the Additional Commissioner of Police envisaged under sub-rule (2) to Rule 15 of the Rules referred to above. No costs.

Announced.



(V.K. Majotra)
Member (A)

/sns/



(V.S. Aggarwal)
Chairman