

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1158/2001

New Delhi this the 27th day of August, 2002

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. M.P. Singh, Member (A)
S.I. Ram Niwas S/o Shri Griwar Singh
R/o 1051 MIG Flats, Loni Road,
Shahdra,
Delhi.

..Applicant

By Advocate: Shri Yogesh Sharma.

Versus

1. N.C.T. of Delhi through the Chief Secretary,
Old Secretariat, Delhi.
 2. The Commissioner of Police,
Police Head Quarters,
Delhi Police,
L.P. State,
New Delhi.
 3. The Joint Commissioner of Police,
Delhi Police,
Northern Range, Police Head Quarters,
New Delhi.
 4. The Deputy Commissioner of Police,
Central District, Delhi.
- ...Respondents

By Advocate: Shri Ajesh Luthra.

ORDER (ORAL)

Hon'ble Mr. Kuldip Singh, Member (J)

The applicant was proceeded departmentally on the following allegations:-

" It is alleged that on 20.8.96 worthy Additional Commissioner of Police, New Delhi Range, New Delhi visited the PS Seema Puri and inspected the pending case files.. During the checking of case file of case FIR No. 246/96 u/s 363 IPC, it was revealed that the case was registered on 12.5.96 on the statement of Shri Satya Ram Singh R/o E-42/346 Rajiv Camp, Jhilmil Industrial Area, Delhi. The complainant suspected that Mahender S/o Hans Raj had kidnapped her daughter and the investigations was taken up by SI Ram Niwas.



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IO of the case, SI Ram Niwas interrogated two boys namely Suraj Bha and Satya Narain, who were the friends of the accused Mahender and Dashratha but no fruitful result came out and they were let off on 29.5.96, the statement of the prosecutrix Kumari Rekha was recorded by the IO of the case u/s 161 Cr.PC. The prosecutrix had not disclosed the name of rest of accused person, i.e., Satya Narain and Suraj Bhan. Besides it, the statement of Prosecutrix u/s 164 Cr.PC was recorded in the Court of Shri L.S. Solanki, M.M. Karkardooma Court, Shahdra in which the victim clearly stated that she had been the accused in the Police Station and identified them. The I.O. has not mentioned it in her statement recorded u/s 161 Cr.PC that the accused were seen by the Prosecutrix and they were brought to the PS on 29.5.1996. The IO has not shown the date and time on which the suspects were interrogated/question and no case diary was written by him to this effect. It seem that the I.O. has not investigated the case fairly with the mala fide intention and ulterior motive.

The above act on the part of SI Ram Niwas No. D/3475 amounts to gross misconduct, negligence, carelessness and dereliction in the discharge of his official duties which renders him liable for departmental action under the Delhi Police (Punishment and Appeal) Rules, 1980".

2. An enquiry was held into the allegations and vide impugned order Annexure A-1 the applicant was imposed a penalty of forfeiture of 3 years approved service permanently entailing proportionate reduction in his pay with immediate effect. It was also directed that he would not earn increments during the period of reduction and after expiry of the period, this will have the effect of postponing his future increments. Appeal was filed against the said order which was ^{disposed off by} ~~dismissed~~ vide Annexure A-3 and the appellate authority allowed his appeal partially and reduced the punishment from forfeiture of 3 years approved service permanently to that of forfeiture of one year approved service permanently entailing reduction in his pay by one stage proportionately in his time scale of pay for a period of one year.

3. The applicant has prayed for quashing of the impugned order dated 29.10.99 passed on the appeal filed by the applicant and the order dated 24.12.1997 passed by

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the disciplinary authority and has also prayed for quashing of the charge-sheet and the report of the Inquiry Officer. He has further prayed that the same be declared as illegal, unjust, arbitrary ~~and~~ ^{being} against the principles of natural justice.

4. In the grounds to challenge the same the applicant has pleaded that the impugned charge-sheet and the summary of allegations are vague and does not disclose any misconduct against the applicant and such type of charge is not maintainable in the eyes of law.

5. It is further alleged that the allegations against the applicant was based on the statement of three witnesses and four documents but the copies of the relied upon documents were not supplied to the applicant.

6. It is also pleaded that the Inquiry Officer did not inform the applicant about his right of defending himself through a Defence Assistant as it was his duty to make aware the applicant with the right of availing an opportunity of defending himself through the assistance of Defence Assistant.

7. It is also pleaded that the IO remained biased and during the whole departmental proceedings he was interested in bringing home the alleged guilt by his all such efforts which he could have done through his own sources.

8. It is further alleged that it is a case of no evidence on record and there is no evidence to support the findings arrived by the Inquiry Officer.

9. No ground has been taken to challenge the appellate order passed by the appellate authority.

10. The OA is being contested by the respondents. The respondents in their reply pleaded that the applicant had indulged in a grave misconduct as he had the knowledge about the accused who was wanted in FIR/246/96. Even the Cr.PC prosecutrix had made a statement under section 164/before

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the court wherein she had stated that she had seen the accused in the Police Station and identified them. But the applicant did not record the case diary with regard to the bringing of the accused to the Police Station nor did he record the statement that the accused were identified by the prosecutrix. The applicant had even not shown the date and time when the suspects were interrogated and no case diary was written by him so this itself shows a grave misconduct on the part of the applicant as he not conducted the investigation in a fair and just manner and as required under the law.

11. It is denied that the statement of witnesses and the documents were not supplied to the applicant rather it is stated that the applicant never demanded any more documents and the statement of the prosecutrix was kept in the record when the charge was proved against the applicant.

12. It is also denied that the applicant was ^{not} given opportunity to engage some defence assistant and he himself had given his consent to the Inquiry Officer to engage someone as his defence assistant and thereafter it was his responsibility to bring the defence assistant at the time of examination of PWs.

13. It was also stated that there is nothing on record that the Inquiry Officer was biased against him. Thus it is pleaded that there is no ground to justify for quashing of the orders passed by the appellate authority or the quashing of the charge-sheet and the enquiry report.

14. We have heard the learned counsel for the parties and gone through the records of the case.

15. The summary of allegations as filed by the applicant on record itself goes to show that a list of witnesses and the list of documents ^{were} supplied to the applicant. There is nothing on record to show that a protest was ever recorded

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by the applicant that these documents were not supplied to him.

16. The allegations regarding non-supply of documents or not providing ^{opportunity} for engaging a defence assistant as taken up in the grounds to challenge the impugned order by the applicant are not supported from the record. There is nothing on record to suggest that the applicant during the enquiry had ever demanded any document which was not supplied to him nor there is any document on record which may show that the applicant has not been offered any opportunity to engage a defence assistant.


17. On the contrary we may observe that the case of the prosecution more or less hinges upon the documentary evidence. The fact that an FIR was registered u/s 363 IPC and thereafter the suspects were brought to the Police Station and were shown to the prosecutrix as she made a statement under Section 164 Cr.PC before the Learned MM that goes to show that on the basis of these documents itself the applicant is unable to challenge the findings arrived at by the Inquiry Officer. He did not produce any case diary recorded by him to show how he had conducted the investigation. It is a well settled principle that whenever any ^{FIR} enquiry is entrusted to the I.O. to investigate a particular case, the Punjab Police Rules require that the Investigating Officer has to maintain a case diary which may reflect as to what steps he had taken during the investigation to investigate the case. Non recording of the case diary will go to show that the applicant had not followed the rules and probably had left a scope of manipulation in the investigation itself, which itself is a serious misconduct on the part of the Investigating Officer so is the case of the applicant.

18. No other ground has been taken up before us.

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19. In view of the above, no interference is called for. OA is accordingly dismissed. No costs.


(M.P. Singh)
Member (A)


(Kuldip Singh)
Member (J)

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