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Central Administrative Tribunal, Principal Bench
New Delhi

O.A. No.1211/2001

New Delhi this the 1st day of January 2002

Hon'ble Mr. M. P. Singh, Member (A)
Hon'ble Mr. Shanker Raju, Member (J)

Sh. Laxman Prasad S/o Sh. Raje Lal,
R/o Village & Post, Baraula,
Distt. Ghaizabad.

- Applicant

(By Advocate : Shri Yogesh Sharma)

Versus

1. The Government of NCT through,
The Chief Secretary,
Old Sectt., Delhi.
2. The Commissioner of Police,
Delhi Police H.Q., Near ITO,
New Delhi.
3. The Joint Commissioner of Police,
New Delhi, Range, Police HQ, I.P. Estate,
New Delhi.
4. The Deputy Commissioner of Police,
East Distt., Delhi.

- Respondents

(By Advocate : Shri Ajay Gupta)

ORDER (ORAL)

Hon'ble Mr. Shanker Raju, Member (J) :

Heard Shri Yogesh Sharma, learned counsel for the applicant and Shri Ajay Gupta, learned counsel for the respondents.

2. The applicant who has been working as Head Constable in Mandawali Police Station has been proceeded against in an departmental enquiry on the allegation that on receipt a communication on 5.3.97, he was entrusted for inquiry and to take appropriate action. From where the incident took place, Mrs. Dinesh Sharma was taken to hospital. The applicant

neither obtained her MLC from hospital nor recorded her statement and filed the D.D. entry No.38 dated 5.3.97 mentioning therein that no such incident had taken place at her residence. On the next day, i.e., 6.3.97, the case was registered vide FIR No.178/97 u/s 302 IPC. Hence, the inquiry was proceeded and the inquiry officer vide his findings, held the applicant guilty of the charge and exonerated Sub Inspector H.R. Meena. The disciplinary authority exercised the powers conferred under Rule, 16 (x) of Delhi Police (Punishment & Appeal) Rules, 1980, the undersigned remitted the case to the EO to examine these two witnesses and submit his supplementary findings. The PW1, Satish Kumar Sharma was examined, who too resiled from his earlier statement recorded during the vigilance enquiry and the other PW2 was not examined due to the reason that he was not attending to the proceedings. The disciplinary authority, keeping in view of their earlier statement on 5.10.1999 arrived at a conclusion that the charge proved against the applicant by disagreeing with the findings and supplementary findings of the EO by awarding the punishment of dismissal from service upon the applicant by an order dated 12.6.2000 and the same was challenged in an appeal and the Joint Commissioner by an order dated 2.3.2001 modified the punishment of dismissal from service to that of the punishment of reduction of rank from H.C. to Constable for a period of two years and the applicant was reinstated without any emoluments.

3. Learned counsel for the applicant at the outset stated that in view of the decision of the Apex Court in the case of State of U.P. Vs. Shatrughan Lal & Anr. reported as JT 1998 (6) 55 and contended that despite his request to the inquiry officer for furnishing him relevant documents in time, inter alia, including preliminary inquiry report and statement of witnesses have not been furnished to him. Without supplying the same to him partially proceeded in the disciplinary proceedings. It is further stated that as per Rule 10 of the Delhi Police (Punishment & Appeal) Rules, 1980, even in the absence of incredibility, the extreme punishment is illegal. The applicant has also placed reliance on the fact that the charge against the Sub-Inspector has though not proved, but he has been alleged of which is against the rules under Articles 14 and 16 of the Constitution of India and the DD Entry report which was recorded by the applicant only on behalf of the Sub-Inspector without any fault of the applicant.

4. On the other hand, strongly rebutting the contentions of the learned counsel for the applicant, learned counsel for the respondents by producing the relevant departmental inquiry report stated that in response to the summary of allegation and particularly to the question regarding supply of any additional documents required for the defence of the applicant, he has drawn our attention to the statement recorded on 18.12.1997 therein the applicant has refused to have any additional document. In this background, it

is stated that the applicant himself voluntarily refused to have any additional document. His subsequent request is an after thought. It is also stated that the documents, which were required by the applicant, have not at all been relied upon as regards the allegations of the applicant are concerned. The vigilance inquiry officer has not been examined as such the relevant vigilance inquiry documents are not required to be furnished to the applicant. It is stated that already a lenient view has already been taken by the appellate authority and the punishment has been reduced despite the fact that the allegation against the applicant was proved. In this view of the matter, no interference is required to be taken in the present case.

5. We have carefully considered the contentions of both the parties and find that as per Rule 16 (1) of Delhi Police (Punishment & Appeal) Rules, 1980, only the documents which are relied upon by the respondents are required to be supplied to the applicant (delinquent) at the time of the disciplinary proceedings against him. The contention of the applicant is that the preliminary inquiry report and the statement of witnesses was not supplied to the applicant is not relevant because the same has not at all been taken into consideration in the disciplinary proceedings against him and, therefore, the ratio cited by the learned counsel for the applicant would have no application in the facts and circumstances of the present case. As regards other grounds are

concerned, we do not find any merit as from the perusal of the evidence recorded in the inquiry, we find that the charge against the applicant of not registering the case and making a wrong entry in the DD entry report has been proved, the applicant has committed his misconduct for which the punishment, as awarded to him, has already been reduced by the appellate authority. In this view of the matter, the present OA lacks merits and is, accordingly dismissed. There shall be no order as to cost.

S. Raju
(Shanker Raju)
Member (J)

M.P. Singh
(M.P. Singh)
Member (A)

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