

Central Administrative Tribunal
Principal Bench

OA 1234/2001

This the 28th day of May, 2002

HON'BLE SH. ASHOK AGARWAL, CHAIRMAN
HON'BLE SH. S.A.T.RIZVI, MEMBER(A)

A.S.I. Om Prakash,
No.4176/D,
North West Zone PCR,
Delhi Police, Delhi. ... Applicant.
(By advocate: None)

Versus

1. The Commissioner of Police (Delhi),
Police Headquarters,
I.P.Estate,
New Delhi.
 2. Addl. Commissioner of Police,
PCR & Comm. Delhi.
 3. Addl. Dy. Commissioner of Police,
Police Control Room,
Delhi.
- ... Respondents.
(By advocate: Shri Harvir Singh)

Order(Oral)

By Hon'ble Shri S.A.T.Rizvi, Member(A).

None appeared on behalf of the applicant even on the second call. We have accordingly proceeded to dispose of the present OA, after hearing the learned counsel appearing on behalf of the respondents by relying on the provisions made in Rule 15 of the CAT (Procedure) Rules, 1987.

2. On the charge of negligence and rash driving, the applicant, who is an ASI (Driver) in Delhi Police, has been proceeded against departmentally and a penalty of forfeiture of five years of sub-service with cumulative effect has been imposed on him by the disciplinary authority's order dated 19.4.1999 (Annexure A-11) with a further direction that he will not earn increments of pay

during the period of reduction and after the expiry of the period of punishment, the penalty imposed will have the effect of postponing his future increments of pay. The aforesaid order was passed in agreement with the findings arrived at by the inquiry authority. Accordingly, the applicant's pay was reduced by five stages from Rs.5100/- to Rs.4600/- per month. On the matter being taken in appeal, the appellate authority has set aside the order of penalty dated 19.4.1999 and has instead imposed the reduced penalty of forfeiture of one year's approved service for a period of one year with cumulative effect entailing consequent reduction in his pay.

3. A revision petition was thereafter filed by the applicant on 5.1.2000 which has not been disposed of as according to the respondents, the Commissioner of Police no longer enjoyed the revisionary powers. The applicant was, however, given the liberty to move the court against the orders passed by the appellate authority.

4. Apart from the penalty imposed as above, a further penalty of recovery of an amount of Rs.48000/- has been imposed on the applicant. The aforesaid amount relates to the damage caused to the official vehicle which met with an accident when the applicant was driving it. The aforesaid amount is being recovered from the applicant's monthly salary @ Rs.2000 per month *dr*

5. We have considered the submissions made by the learned counsel appearing on behalf of the respondents and have perused the material placed on record.

6. We find no substance in the various pleas raised on behalf of the applicant. The proceedings have been conducted properly and a reasonable opportunity has been given to the applicant to state his case. In disciplinary proceedings, we are not expected to reappraise the evidence so as to arrive at our own findings and conclusions. The orders passed by the disciplinary authority as well as the appellate authority are reasoned and speaking orders. The inquiry authority has recorded his findings after a proper analyses of the evidence and we have not discovered any perversity in the conclusions which he has arrived at and which have been relied upon by the disciplinary authority. For good and sufficient reasons, the inquiry authority as well as the disciplinary and the appellate authorities have held that the PCR Van driven by the applicant met with a serious accident just because the applicant was not driving the vehicle at a proper speed so that he failed to control it and the inevitable result was the accident in question. According to the disciplinary authority, the impact of the accident was so severe that not only the PCR Van was heavily damaged but injury was also caused to the occupants of the vehicle. The conclusions that the applicant

was driving the PCR Van in a rash and negligent manner cannot, in the circumstance, be faulted, and thus the impugned orders cannot be successfully assailed.

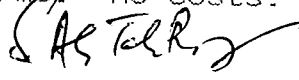
7. In the light of the foregoing, the OA stands dismissed insofar as the penalty of forfeiture of the applicant's service is concerned.

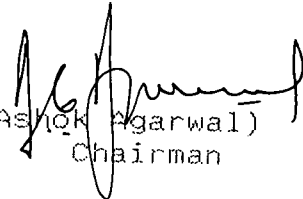
8. In relation to the second penalty of recovery of Rs.48000/-, the position is different. The applicant's case is that the aforesaid recovery has been imposed on him without first putting him to notice and without providing him with details of the damage caused to the vehicle and the repairs sought to be made. The applicant has assailed the aforesaid penalty of recovery by invoking the principle of double jeopardy in terms of article 20 of the Constitution. After consideration, we do not find it necessary to go into this aspect of the matter and feel that it will be entirely in order to quash and set aside the aforesaid penalty of recovery of Rs.48,000/- due to non-observance of the principle of natural justice, subject to the condition that the respondents will be at liberty to issue a show cause notice to the applicant and thereafter will pass an appropriate order in respect of recovery by taking into account the representation, if any, filed by the applicant in response to the show cause notice.

2/ Having quashed the aforesaid penalty of recovery, we

further direct the respondents to refund to the applicant the entire amount recovered so far. This they should do within a period of one month from the date of receipt of a copy of this order.

9. The OA is disposed of in the aforestated terms. No costs.


(S.A.T. Rizvi)
Member(A)
/kd/


(Ashok Agarwal)
Chairman