

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1200 of 2001

New Delhi, this the 8th day of April, 2002

HON'BLE MR. V. K. MAJOTRA, MEMBER (ADM)
HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

Woman Sub-Inspector Jagtar Kaur
No. D-2502
W/o Shri Sunder Lal Chawla
aged 50 years
R/o 28-B, Police Colony Model Town,
Delhi.

- APPLICANT

(By Advocate: Shri Sachin Chauhan)

Versus

1. Union of India
Through its Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. Commissioner of Police,
Delhi,
Police Headquarters,
I.P. Estate,
MSO Building,
New Delhi.
3. Additional Commissioner of Police,
Police Control Room & Communication,
Police Headquarters,
I.P. Estate,
New Delhi.
4. Dy. Commissioner of Police,
Police Control Room,
Sarai Rohilla, Delhi.

- RESPONDENTS

(By Advocate: Shri Ram Kanwar)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (Judl)

Applicant, a woman Sub-Inspector of Delhi Police has assailed the order dated 16.5.98 vide which the enquiry against her has been reopened after her acquittal from the criminal case. The applicant has also assailed order dated 17.12.1998 whereby on a departmental enquiry the next increment of the applicant has been withheld for a period of 3 years with cumulative effect.

[Signature]

12

The appeal against the said order was also rejected.

2. The facts in brief are that the applicant was residing in the Government accommodation allotted to her and one Santok Singh while coming out of her house was apprehended with Narcotics who was arrested under section 21/61/85 of NDPS Act. The applicant was also arrested under NDPS ACT and was tried for the offence u/s 25 and 29 of the NDPS Act. A departmental enquiry was initiated against the applicant on the allegations that the applicant had not informed the department and had allowed one unauthorised person to stay in the Government accommodation. But on account of the criminal case, the departmental enquiry was kept in abeyance and ultimately vide Annexure A-6, the Trial Court said that there is no satisfactory evidence that co-accused Jagtrar Kaur (applicant in the present OA) abetted the offence committed by accused Santokh Singh or permitted her residence to be used for commission of offence. However, after the acquittal, the enquiry had been re-opened and applicant has been punished vide impugned orders.

3. Challenging the same, the applicant has submitted that the disciplinary authority at the time of keeping the enquiry in abeyance was of the firm opinion that the charge levelled against the applicant was identical as levelled against her in the criminal case and that was the reason the enquiry was kept in abeyance and now on the basis of the judicial verdict the applicant had been acquitted, so she should not have been proceeded departmentally.

h

4. Besides that it is pleaded the Trial Court was of the opinion that there is no evidence that said Shri Santokh Singh has kept heroin in the Government quarter in question nor there was any evidence that the applicant has used her residence for the commission of offence. But the findings recorded by the Inquiry officer are based on the fact that a driving licence, pass book of Bank Account and registration of a vehicle in the name of Santokh Singh have been obtained on the same address of applicant's Government accommodation are contrary to findings of the judicial court and as such it cannot be said that the applicant has allowed unauthorised use of Government premises to Santokh Singh so it is stated that the impugned orders are liable to be quashed.

5. The OA is opposed by the respondents. The respondents pleaded that the charges against the applicant are permitting unauthorised person to stay in the Government quarter without obtaining permission of the competent authorities is in violation of SR 111/1/79 and there is nothing common in the charges as framed by the judicial court where the applicant was tried for offence u/s 25 and 29 of the NDPS Act. Here the applicant is guilty for allowing the unauthorised person to stay in the Government quarter and violating SR No. 111/1/79, so the plea of the applicant is not tenable and the OA should be dismissed.

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



7. Shri Sachin Chauhan appearing for the applicant opened his arguments with the admission that the charges as levelled in the departmental enquiry and as levelled by the competent criminal court under the NDPS Act are not identical but still the learned counsel submitted that the Trial Court had held that there is no evidence to show that the applicant had permitted his residence to use it for commission of offence. The applicant also admitted that Shri Santokh Singh was a fellow co-villager and was visiting occasionally but was not living in the premises. The counsel for the applicant also submitted that even as casual guest one guest can live with the employee for a period of 3 months and there is nothing on record to establish that the said Shri Santokh Singh had ever lived with her or got a ration card issued from the said residence which can be said to be a proof of residence.

8. We have gone through the findings recorded by the Inquiry Officer as well as the orders passed by the disciplinary authority and the appellate authority. There is sufficient evidence on record to show that the said Santokh Singh had purchased vehicle from the address of the applicant. Shri Santokh Singh had also given a copy of the pass book of the bank account which also show that he had used the Government accommodation to operate the bank account and his driving licence has also been issued showing the same address, so the Inquiry Officer had drawn a conclusion that the applicant was using his premises in an unauthorised manner.

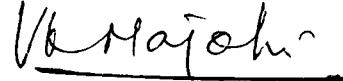
kr

9. In our view also the Tribunal while sitting in a judicial review is not required to reappreciate the evidence unless the findings recorded by the Inquiry Officer are so perverse in nature which a reasonable man cannot arrive at. Here in this case the fact that various documents have been produced on record which show that the said unauthorised person had been giving the address of the Government quarter allotted to the applicant for his various dealings, will go to show that the applicant had allowed the said person to stay in the Government accommodation unauthorisedly which is in violation of S.O. No. 111/1/1979.

10. In view of the above, we find that the OA does not call for any interference and the same is dismissed. No costs.


(KULDIP SINGH)

MEMBER (JUDL)


(V.K. MAJORRA)

MEMBER (A)

Rakesh