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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1283/2001

New Delhi, this 5th day of February, 2002

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

W/Sub-Inspector Jagtar Kaur, No.D-2502
28-B, Police Colony
Model Town, Delhi

.. Applicant

(By Shri Sachin Chauhan, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Home Affairs
North Block, New Delhi
2. Commissioner of Police
Police Hqrs., New Delhi
3. Addl. Commissioner of Police
PCR & Communication
Police Hqrs., New Delhi

.. Respondents

(By Shri Devesh Singh, Advocate, through proxy counsel
Shri Amit Rathi)

ORDER(oral)

Shri M.P. Singh, Member(A)

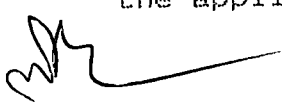
Applicant is before us challenging the order dated 14.12.1998 whereby a major punishment of permanent forfeiture of 2 years approved service alongwith consequential pay and increments was imposed on her and order dated 21.9.99 by which her appeal against the punishment order has been rejected.

2. It is the case of the applicant, working as Sub-Inspector in Delhi Police, that she was falsely implicated in a criminal case under FIR No.4/1994 u/s 409/34 IPC. She was granted anticipatory bail vide order dated 5.5.98 and thereafter without any formal arrest she was released on bail. This fact was informed

MR

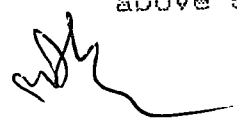
by the IO to the controlling authority of the applicant by lodging DD No.36 dated 5.5.98 on applicant's behest. She had also informed the department through UPC dated 6.5.98 and again on 6.7.98, about her appearance before the M.M. and grant of anticipatory bail. Thereafter, she was placed under suspension on 22.5.98 vide order dated 2.6.98 on the ground that she had failed to inform the department of her arrest in the criminal case. She was proceeded against departmentally after issue of charge-sheet. The IO without taking into consideration the defence of the applicant and other circumstances and also without taking cognizance to the DD entry recorded by himself, held her guilty by observing that the UPC sent by her was not traceable in the record. Thereafter, the disciplinary authority (DA, for short) imposed upon her the aforesaid punishment through a non-speaking order. Her appeal against the punishment order has also been rejected without considering her defence and wrongly observing that the UPC is manipulated. Her revision petition still remains undisposed. That is how the applicant is before us seeking to quash the aforesaid impugned orders.

3. It is the case of the respondents in their reply that the applicant had willfully suppressed the fact about her arrest thereby violating the instructions on the subject, which is a serious lapse on her part. She was placed under suspension vide order dated 22.5.98. The IO, upon completion of DE proceedings, submitted his findings concluding that the charge levelled against the applicant stands proved. Tentatively agreeing with the findings of IO, a copy of IO's report was served upon the applicant on 22.10.98 for making representation. The




DA, after carefully going through the statements of PWS, DW, defence statement/representation of the applicant and record/evidence available on DE file and also after hearing the applicant in OR on 13.11.98, imposed the aforesaid major punishment by order dated 14.12.98 interalia treating the suspension period as not spent on duty for all intents and purposes. In view of this position, the OA be dismissed.


4. After hearing the learned counsel for the parties and perusing the records available before us, we find that the applicant had duly informed the DCP, PCR, Delhi through UPC on 6.5.98 itself of her 'formal arrest'. While the IO in his findings has observed that "Further no such letter purported to have been sent by WSI Jagtar Kaur through UPC could be traced in the office of DCP/PCR as such her version can't be relied upon", in the reply the respondents have stated that "the alleged UPC cover was never received in this office". Since the stamp of Post Office is franked in the UPC receipt, it cannot be held that it was a manipulated one, as contended by the respondents. Besides, the applicant has also attached a copy of DD entry (No.36) recorded by the IO about the incident. That apart, after appearing before the court of Shri V.K.Bansal, MM, Tis Hazari on 4.7.98, the applicant had duly informed the DCP, PCR on 6.7.98, enclosing therewith a copy of the summon received by her, about her release on bail and that even the IO of the case had earlier informed her unit regarding her formal arrest and grant of bail in the above said case.



5. Admittedly, the applicant was placed under suspension on the ground that she had willfully suppressed the fact of her arrest to the concerned authorities and violated the instructions on the subject. The fact remains that she had duly informed the fact to the authority concerned on 6.5.98 through UPC. If the same is not traceable, she cannot be held guilty for the same. The fact of DD entry dated 5.5.98 or further intimation of the applicant dated 6.7.98 about her appearing before the MM and the grant of anticipatory bail is also not in dispute. In view of this position, we hold that that the inquiry conducted against the applicant is vitiated and deserves to be dismissed.

6. In the result, the present OA is allowed and the impugned orders dated 14.12.98 and 21.9.99 are quashed and set aside, leaving the parties to bear their own costs.


(Shanker Raju)
Member(J)


(M.P. Singh)
Member(A)

/gtv/