

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1337/2001

New Delhi, this the 14th day of February, 2002

Hon'ble Dr. A.Vedavalli, Member (J)
Hon'ble Shri Govindan S.Tampi, Member (A)

Ex.Asstt. Sub-Inspector Anoop Singh No.1333/D
S/o Shri Kishore Lal
R/o Village-Sardar Pur, P.O. & P.S.
Bahadur Garh, Distt.Ghaziabad, Uttar Pradesh.

....Applicant

(By Advocate Shri Sachin Chauhan)

V E R S U S

UNION OF INDIA : THROUGH

1. Secretary
Ministry of Home Affairs
North Block,
New Delhi.
2. Addl. Commissioner of Police
Special Branch
Police Headquarters, I.P.Estate
M.S.O.Building, New Delhi.
3. Dy. Commissioner of Police
Special Branch
Police Headquarters, I.P.Estate
M.S.O.Building, New Delhi.

...Respondents

(By Advocate Shri A.K.Chopra
through Shri R.K.Singh)

O R D E R (ORAL)

By Hon'ble Shri Govindan S.Tampi,

Applicant in this case seeks to have the impugned order of his removal from service quashed and set aside with grant of consequential benefits.

2. Heard Shri Sachin Chauhan, ld. counsel for the applicant and Shri R.K.Singh, ld. proxy counsel for the respondents.

3. Facts of the case as brought out in the OA are that the applicant, while working as Assistant Sub-Inspector (ASI), Delhi Police was proceeded against on the allegation that when detailed for verification of personal particulars of two applicants for passport, i.e., S/Shri Navneet Multani and Jaswant

10

Ghotra, r/o 1/9339, Gali No.1, Pratap Pura, Shahdara, Delhi and reported that they were residents of the above address for more than two years. However, it turned out during a subsequent enquiry initiated in I.G.Airport, New Delhi against the two individuals that they had never stayed in the said premises. It was, therefore, alleged that a verification was wrongly done to facilitate the issue of passport to the above individuals of allegedly dubious background. In the DE proceedings conducted against the applicant, the charge was shown as proved. Accepting the Enquiry Officer's report dated 24-7-2000, the disciplinary authority (Deputy Commissioner of Police) by his order dated 27-9-2000, imposed on the applicant, the penalty of removal from service with immediate effect. The same being carried in appeal, the appellate authority (Addl. Commissioner of Police) upheld the order and rejected the appeal. Both these orders are under challenge before us.

4. In the pleadings made on behalf of the applicant by Shri Sachin Chauhan, ld. counsel, it is submitted that the applicant was an individual who had nearly 36 years of totally unblemished record of service and this is the only case of any alleged indiscretion by him. He had discharged the responsibility cast on him and had conducted the verification of the particulars in respect of the individuals concerned. There was no deliberate omission or inaction on his part in the discharge of his duties. Still, the extreme penalty of removal has been imposed on him, which virtually amounts to dismissal in his case, which was not at all justified. In the order of the disciplinary authority, it has been indicated that the applicant

12

had conducted bogus/false verification with ulterior motive which had rendered his continuance in the Police organisation hazardous, for which there was no evidence whatsoever. The respondents have not indicated as to how they had come to such a conclusion, which alone would have justified the imposition of a stringent penalty. Shri Chauhan, ld. counsel also invited our attention to the decision of the Tribunal in 2526/1996, filed by Sohan Lal Vs. UOI & Ors., decided on 31-5-2000, in identical circumstances. The Tribunal had held that in the circumstances of the said case, the penalty of removal imposed on the applicant in the said case was excessive and directed the respondents to re-consider the matter and impose ~~of~~ ^h penalty commensurate with the mis-conduct committed by him, in a just and reasonable manner. The ratio of the said judgement was squarely applicable to the present case as well, pleads Shri Chauhan.

5. Shri R.K.Singh, ld. proxy counsel for the respondents states that the imposition of the penalty of removal on the applicant, ordered by the disciplinary authority and endorsed by the appellate authority was correct keeping in mind the gravity of the charge. The applicant, who was an ASI of Police, entrusted with the delicate task of verification of the personal particulars of two individuals who had applied for the passport had performed his job in a casual and negligent manner, resulting in the issue of the passports to the individuals, who turned out to be persons of dubious background and who had not resided in the address, which have been wrongly shown by them and certified/verified by the applicant. Applicant

has failed in the discharge of his duties and, therefore, the respondents could not have taken any lenient view, pleads Shri Singh. The OA, therefore, deserves to be dismissed as being devoid of any merit, pleads the ld. counsel.

6. We have carefully considered the matter. On the examination of the facts brought on record, we find that the applicant who was deputed for verifying the personal particulars of two individuals who had applied for passport, had not done his job properly, as he had verified as true, their residential address while subsequent enquiries showed that they had never been residents in the same premises. This wrong verification has led to the issue of passports to the individuals, who were subsequently found to be individuals of doubtful character. At the same time, it is found that no evidence has been brought on record to show that the applicant had any ulterior motive, pecuniary or otherwise, in certifying the address, which had led to the issue of passports. We also note that the applicant had put in more than 36 years of unsullied record of service and had come up by dint of perseverance from the rank of a Constable of Police. In the absence of any ulterior motive, referred to in the impugned order without any ^{supporting} evidence and in the background of the applicant's long unblemish^{ed} record of service, we feel that the extreme penalty of 'removal' imposed on him, by the disciplinary authority and endorsed by the appellate authority is excessive in nature and disproportionate to the gravity of the charge raised and proved against him. As the ld. counsel for the applicant ^{has} correctly argued, the penalty of removal almost amounts to

dismissal. This, to our mind, was clearly avoidable. Our decision is also fortified by the findings of a Co-ordinate Court in the Principal Bench in OA 2526/96 filed by Sohan Lal, decided on 31-5-2000 in identical circumstances, wrong verification of residence of applicants for passport. The Tribunal had, in the said OA, quashed and set aside the orders of the disciplinary authority and the appellate authority and remanded the matter for re-consideration of the penalty, commensurate with the gravity of the charge raised and proved against the applicant, but declining to substitute its judgement on the quantum of penalty, relying upon the decision of the Hon'ble Supreme Court in the case of B.C. Chaturvedi Vs. UOI (JT 1995 (8) SC 65. In the circumstances of the present case also, we feel that issuance of such a direction is felt justified and warranted.

7. In the above view of the matter, the application succeeds to a substantial extent and is accordingly disposed of. The impugned order dated 27-9-2000 passed by the disciplinary authority (Deputy Commissioner of Police) and the appellate order dated 13-12-2000 passed by the appellate authority (Addl. Commissioner of Police) are quashed and set aside. The matter is remanded to the disciplinary authority to re-consider and decide the case afresh with specific reference to our findings on the nature of the penalty of removal as excessive and dis-proportionate to the charge raised and proved against the applicant and pass an order imposing any lesser penalty, commensurate with the charge. This exercise shall be completed within three months from the date of receipt of a copy of this order. The

applicant shall be reinstated in service but kept under suspension and the regularisation of the period between the date of removal from service and reinstatement shall be determined by the disciplinary authority in accordance with law. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

/vks/

A. Ve. Adavalli
(DR. A. VEDAVALLI)
MEMBER (J)