

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1619 of 2001

New Delhi, this the 24th day of July, 2002

HON'BLE MR. KULDIP SINGH, MEMBER (JUD.)
HON'BLE MR. S. A. T. RIZVI, MEMBER (A)

Shri Ronak Singh Constable No. 1544/S0
S/o Shri Mange Ram
presently posted in Police Station
Kalkaji,
New Delhi.

through:

(Arvind Singh, Advocate
Chamber No. 589, Patiala House Courts
at New Delhi) Applicant

By Advocate: Shri Arvind Singh.

W. S. F. 2016

1. Administrator of National Capital Territory of Delhi through Joint Commissioner of Police, Southern Range, Police Head Quarters, NSQ, Building, I.P. Estate, New Delhi.
2. Additional Deputy Commissioner of Police (South District), DCP, SD Office at Hauz Khas, New Delhi.
3. Inspector C, Raj Singh, Enquiry Officer Through DCP/HQ (I) Police Head Quarters, I.P. Estate, New Delhi. . . Respondents

By Advocate: Shri Ram Kanwar.

OR D E R (ORAL)

by Hon'ble Mr. Kuldip Singh, Member (Jud.)

The applicant along with Head Constable Dharambir Singh was proceeded departmentally on the following allegations:-

" On 10.7.98 HC Dharambir, No.359/SD MHC (M) of Police Station H.N. Din detected a loss of 9 M.M. of Pistol No. 1961 along with 10 live cartiges during the course of checking of Arms and Ammunitions. HC Dharambir Singh No.359/SD MHC (M) then informed SHO/H.N. Din, Inspector N.P. Singh and Additional SHO/Inspector Inspector Satish Kain on 21.7.1998 at about 5.00 P.M. Additional SHO/Inspector Satish Kain enquired into the matter and it



revealed that pistol No.1961 was issued in the name of SI Ranjit Singh Dhaka No.D-909 on 7.4.98. But the entry recorded in the Arms registers was found to struck off showing the receipt of arms and ammunition back in Makhana but it did not contain the signature of the recipient. The actual date of loss of Pistol No.1961 could not be ascertained. But neither MHC (M) nor Makhana Munshi Constable Ronak Singh No.1544/SD have informed the SHO or Additional SHO/H.N. Din regarding missing of pistol No.1961 which was issued to SI Ranjit Singh Dhaka No.D-909. Moreover, MHC (M) P.S. HM. Din should have pointed it out if the pistol was not deposited in the Makhana by the SIRS Shaka No.D-909. The record of issue and receipt of arms and ammunition is not being properly maintained in the Police Station. Thus loss of Government Property occurred due to sheer negligence of HC Dharambir No.359/SD and Ct. Ronak Singh No.1544/SD.

The above act on the part HC Dharambir No.359/D and Ct. Ronak Singh No.1544/SD amounts to gross misconduct, negligence and dereliction in the discharge of official duty which render them liable for departmental action punishable under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980".

2. During the enquiry a prima facie case was found against him, charges were framed and then the Inquiry Officer returned the finding holding the applicant as well as his co-defaulter guilty. Thereupon the disciplinary authority after supplying copy of the findings and affording them opportunity and after considering their replies, imposed a penalty upon the applicant as well as on his co-defaulter whereby the pay of the applicant was reduced by three stages from Rs.3800 to Rs.3575 in the time scale of pay for a period of three years and that of Dharambir Singh was reduced from Rs.4050/- to Rs.3795/- also for a period of three years w.e.f. the date of the issue of the order. It was also mentioned that they will not earn increment of pay during the period of reduction and on expiry of this period, the reduction will have the effect of postponing of their future increments. Against this order passed by the

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disciplinary authority, the applicant preferred an appeal. The appellate authority also did not find any merit in the appeal and rejected the appeal.

3. The applicant has assailed these order on the ground that no proper opportunity was given to the applicant to defend his case through defence assistant. It is also stated that the copies of the relevant documents which were vital for defence, was not supplied to the applicant, therefore, the order of penalty is bad.

4. It is also pleaded that the disciplinary authority in its order had not indicated the points on which the applicant was expected to give reply on the findings returned by the Inquiry Officer.

5. It is further stated that the findings returned by the Inquiry officer are not supported by any documents.

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

7. As regards the non-supply of the documents is concerned, the respondents have submitted that at the time of supply of summary of allegations the applicant was supplied all the documents and he cannot have any grievance that the documents relied upon by the department had not been supplied to him. It was further submitted that even at the time of filing of the appeal the applicant had again asked for the documents and the documents which were available at that time, were



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supplied to the applicant. In this regard the counsel for the respondents has referred to para 4.16 and 4.17 in his counter-affidavit wherein it was specifically stated that after the receipt of the copy of the punishment order, the applicant had requisitioned some more documents to file the appeal and the relevant requisitioned documents had been supplied even at belated stage and it was also specifically mentioned that during the progress of the DE the applicant had not asked for any other documents so we find that the plea taken up by the applicant that the documents was not supplied by the department is not supported by any material on record and is only an after-thought and that plea cannot be entertained at this stage.

8. As regards the facility of providing defence assistant is concerned, on this score also respondents have stated in their affidavit that at the time of the receiving of the summary of allegations etc., the applicant was also informed that in case he intends to engage police officer/Government servant to act as defence assistant vide Questionnaire No.6 put to the applicant, but the applicant never submitted the written consent of engaging any defence assistant to the Enquiry Officer during the hole process of enquiry proceedings.

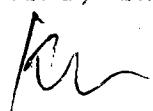
9. The counsel for the respondents further submitted that the record would also reveal that during the enquiry the applicant himself had cross examined the witnesses effectively and it is he himself who had not

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chosen any defence assistant as per rules whereas the opportunity to engage a defence assistant was duly provided to the applicant.

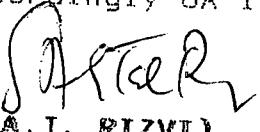
10. We have also seen the record and the contents of this affidavit which are not controverted by the applicant to the extent that opportunity was provided to engage defence assistant, so this plea again has no merits.

11. The counsel for the applicant then referred to the statement of witnesses and submitted that when the Sub Inspector Ranjit Singh Dhaka came to return another pistol the applicant pointed out to him that the pistol in question which is missing was also standing in his name but SI Ranjit Singh Dhaka informed that he had returned the pistol in question earlier to MHC (M), i.e., the co-defaulter of the applicant and on the asking of SI Ranjit Singh Dhaka, he deleted the entry against which the pistol in question was issued to SI Ranjit Singh Dhaka. The applicant's counsel thus submitted that it is the applicant who was misled by SI Ranjit Singh Dhaka and the applicant under misconception had deleted the entry showing the issue of pistol in the name of SI Ranjit Singh Dhaka. However, in our view this plea of the applicant has again no merits because the applicant has acted in a most irrational and irresponsible manner when he deleted the entry showing issue of pistol in the name of SI Ranjit Singh Dhaka without verifying the stock or even without consulting his MHC (M) who was incharge of the Malkhana. The applicant appears to have acted in a most reckless manner and particularly in respect of an

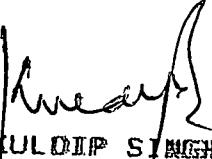


entry whereby the issue of pistol was in question. So it is such a misconduct for which the applicant had been proceeded departmentally.

12. Since the applicant is unable to point out any procedural lapse for judicial review of the impugned order, so we find that the OA does not call for any interference and the same has to be dismissed. Accordingly OA is dismissed. No costs.


(S.A.T. RIZVI)

MEMBER (A)


(KULDIP SINGH)
MEMBER (JUD.)

Rakesh