

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Hon'ble Shri M.P.Singh, Member(Admnv.)
Hon'ble Shri Shanker Raju, Member (Judicial)

O.A.No.1680/2001

New Delhi, this the 22nd day of October, 2001

A.S.I. Bhakhtawar Singh
No.2625/D
r/o Q.No.21 P.S.Civil Lines
New Delhi. ... Applicant

(By Advocate: None)

Vs.

1. Commissioner of Police
Police Head Quarters
I.P.Estate
New Delhi.
2. Joint Commissioner of Police
Police Headquarters
I.P.Estate
New Delhi. .. Reespondents

(By Advocate: Shri Ram Kavar)

O R D E R(Oral)

By Shri Shanker Raju, M(J):

None appeared for the applicant even on second call. We proceed to dispose of the OA in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. Briefly stated, the applicant is working as Assistant Sub-Inspector in Delhi Police was awarded a major punishment of reduction in rank against which OA No.2135/95 was filed by him. By an order dated 11.4.1997 having noted of non-compliance of Rule 15(2) of the Delhi Police (Punishment and Appeal) Rules, 1980, the applicant, who had not availed the remedy of revision has been directed to file a revision petition and respondents are directed to hold a 'de-novo' enquiry. In pursuance thereof vide letter dated 26.6.1998, the Lt. Governor of Delhi has decided to



proceed the applicant afresh in 'de novo' enquiry. In pursuance of the enquiry after being accorded prior approval under Rule 15(2) ibid, the respondents have inflicted a major punishment of withholding of one increment temporarily by an order dated 25.1.2000 which was affirmed by the appellate authority on 23.5.2001. The applicant has assailed both the orders and has sought directions to release the withheld increments.

3. Though the applicant has taken several contentions but at the outset we take note of the judicial pronouncement to the effect that the punishment order has been passed by the Joint Commissioner of Police (Vigilance), though the applicant has not taken a plea of order passed by the Joint Commissioner is without jurisdiction but in view of the decision of this Court in Sube Singh, ASI Vs. Union of India & Others, OA No.1751/2000, dated 6.8.2001, wherein it has been held that the Joint Commissioner of Police in absence of any authority under Section 21 (viii) of Delhi Police, Act, 1978 and a notification issued by the Lt. Governor under Section 147 of the Delhi Police Act, 1978 ibid is without any jurisdiction to Act either as disciplinary or appellate authority. As the plea is purely legal without any requirement of examination of facts, the same is permissible as held by the applicant in Rattan Lal Sharma Vs. Managing Committee, 1993 SCC (L&S) 1106.

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4. The respondents have taken several objections to the contentions of the applicant and stated that the orders have been passed by after following the due process of law in accordance with rules.

5. However, keeping in view the ratio in Sube Singh's case supra and the admitted fact that the punishment order has been passed by the Joint Commissioner of Police, without expressing any opinion on other legal grounds taken by the applicant, we allow this OA partly by setting aside the order of punishment passed by an incompetent authority as well as the appellate order dated 23.5.2001. The matter is remanded back to the competent Disciplinary Authority for passing afresh order within a period of one month from the date of receipt of a copy of this order. No costs.

S. Raju

(SHANKER RAJU)
MEMBER(J)

M.P. Singh

(M.P. SINGH)
MEMBER(A)

/RAO/