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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-1941/2001

New Delhi this the 4th day of August, 2003.

Hon'ble Shri Justice V.S. Aggarwal, Chairman  
Hon'ble Shri S.K. Naik, Member(A)

Sh. Mahabir Singh Dahiya,  
D-1-632,  
North East Distt.,  
R/o A-24, NPL,  
Kingsway Camp, Delhi. .... Applicant

(through Sh. Arun Bhardwaj, Advocate)

Versus

1. Commissioner of Police,  
Police Head Quarter,  
I.P. Estate,  
New Delhi.
2. Jt. Commissioner of Police,  
New Delhi Range, Police Hqrs.,  
I.P. Estate, New Delhi. .... Respondents

(through Sh. Ram Kanwar, Advocate)

ORDER (ORAL)

Shri Justice V.S. Aggarwal, Chairman

The applicant Mahabir Singh Dahiya at the relevant time was officer incharge of police Station Mansarovar Park. Disciplinary proceedings had been initiated against him with respect to the following charges:-

"I, D.P. Verma, Dy. Commissioner of Police, Supreme Court Security, New Delhi hereby charge you Insp. Mahavir Singh Dahiya, No.D-I/632 that in order to review the case files of Police Station M.S. Park on 14-8-98, Shri M.S. Chhikara, ACP/Shahdara directed Insp. M.S. Dahiya, SHO/M.S. Park to send some responsible officer alongwith a list of pending cases in case he is unable to do so personally. Despite this direction given personally to the SHO,

*MS Agarwal*

neither did the latter appear before the ACP nor he depute any other police Officer to do so. A DHG was sent to office who also did not meet the ACP who recorded report in this regard vide D.D.No.71-B dated 14-8-98 at P.S. M.S. Park.

On 16-8-98, Shri Chhikara again asked Insp. Dahiya, SHO/M.S. Park to meet him alongwith the case files and list of cases, but the latter did not do so and sent Sh. K.L. Meena, Addl. SHO/M.S. Park alongwith case files and staff. When asked, Insp. Dahiya informed that as at 2-00 PM, C.M., Delhi was visiting in the area, he would come thereafter, however he did not do so under the pretext that he was going to attend a function in some school. The ACP again told him that he was waiting for him since morning. At about 4-15 PM when Sh. Chhikara was checking the case files of I.Os. of P.S. Shahdara in the presence of Addl. SHO/M.S. Park and SHO/Shahdara, Insp. M.S. Dahiya, SHO/M.S. Park came to his office alongwith the case file of FIR No. 234/97 which was pending investigation with him in which he was advised to send the viscera for examination at the earliest. As there were somedrastic defects in the case files of P.S. M.S. Park, he was told about it and asked that he should report against the erring officers. On this Insp. Dahiya became furious. Insp. Vipin Kumar, SHO Shahdara and the ACP tried to persuade him to calm down but in vain. Instead Insp. Dahiya said that he was fed up of the daily 'chick-chick' and didnot like hearing 'Bakwas' in the presence of Insp. Vipin Kumar SHO/Shahdara and Sh. K.L. Meena, Addl. SHO/ M.S. Park. On this the ACP and SHO/ Shahdara asked him to leave the office, who accordingly left and ACP/Shahdara recorded a report in this regard vide D.D.No.13-A dated 16-8-98, P.S. Shahdara.

The above act on the part of Insp. Mahavir Singh Dahiya No. D-I/632 amounts to grave misconduct, negligence, indisciplined, unbecoming of a police officer and dereliction in the discharge of his official duties which renders you liable to be punished under the Delhi Police (Punishment & Appeal) Rules, 1980."

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2. The Enquiry Officer recorded the evidence and thereafter had expressed an opinion that the charges referred to above are not proved against the applicant.

3. When the matter came up before the Disciplinary Authority, the said Authority did not agree with the findings of the Enquiry Officer. During the course of submissions, learned counsel for the applicant has drawn our attention to certain facts. We are not dwelling into the same. The reason being that it was pointed that in the show cause notice served on the applicant in this regard the findings of the Enquiry Officer was not a tentative decision but a final decision arrived at holding the applicant guilty for the dereliction of duty with respect to the charge.

4. The position in law is well settled that when the Disciplinary Authority who has arrived at the ~~final~~ decision that it would be appropriate to differ with the Enquiry Officer, he has to express a tentative opinion rather than a final opinion. Herein the Disciplinary Authority had not given a tentative opinion while serving notice but expressed himself finally that the charge as framed stood proved.

5. When such is the position, necessarily the order passed by the Disciplinary Authority dated 10.02.1999 followed by the subsequent order examining the penalty and the Appellate Authority must crumble.

*MS Ag*

6. By way of abundant caution, we make it clear that we are not expressing ourselves with respect to any other pleas, some of which in fact are time barred.

7. Resultantly, we quash the impugned order and remit the matter to the Disciplinary Authority, who may if deemed appropriate, from the stage the enquiry report was received, proceed in accordance with law. Necessary steps be taken and preferably should be completed within four months from today.

*Naik*  
(S.K. Naik)  
Member(A)

*Ag*  
(V.S. Aggarwal)  
Chairman

/vv/