

Central Administrative Tribunal, Principal Bench

O.A.No.2070/2001

New Delhi, this the 4th day of September, 2002

Hon'ble Mr.Justice V.S.Agarwal,Chairman
Hon'ble Mr.V.K.Majotra,Member(A)

Ram Kishan
ASI No.4661-D,
PIS No: 2966014
West Zone PCR Vikas Puri,
Delhi.

2.Constable (Driver)
Prem Singh,
No: 4381/PCR/ New 3303/4th Bn.
PS No: 28893368
4th Battalion
DAP, Kingsway Camp,
Delhi

....Applicants

(By Advocate: Shri V.K. Raina)

Versus

1.Govt. of N.C.T.
Thro Commissioner of Police
I.P. Estate,
New Delhi.

2.Addl.Commissioner of Police
PCR & Comm.
Delhi.

3.Dy.Commissioner of Police
Police Control Room
Delhi

4.Inquiry Officer
(ACP, NDZ) PCR
New Delhi
2,3 & 4 (C/o I.P.Estate, New Delhi)
(By Advocate: Mrs.Renu George)

....Respondents

Order(Oral)

By Justice V.S. Aggarwal,Chairman

Applicant Ram Kishan is an Assistant Sub Inspector while Prem Singh is a Driver in Delhi Police. It is alleged that on 2.8.99 at about 1.15PM, there was an incident of shooting out and an attempt of dacoity at Najafgarh Road, Nangal Dairy. The place of occurrence was near the post of PCR Van P-61 i.e. Police Picket,Kakrola. Applicants were detailed for duty from 8.00AM to 8.00PM. The department had started the proceedings for gross negligence, misconduct and dereliction of duty against the applicants.

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2. It had been asserted that some persons had come and informed about the incident of shooting at Najafgarh Road but applicants did not react to their information on the plea that place of occurrence did not fall in their beat area. An enquiry had been initiated. The enquiry officer submitted a report against the applicants. The Deputy Commissioner of Police, keeping in view the said report and the gravity of misconduct, awarded a punishment of forfeiture of two years approved service for a period of two years entailing reduction in their pay by two stages. Accordingly their pay was reduced from Rs.4800/- to Rs.4600/- and Rs.3575/- to Rs.3425/- p.m., respectively. It was directed that they will not earn increments of pay during the period of reduction and on expiry of this period, the reduction will have the effect of postponing their future increments of pay. The suspension period of the applicants was to be treated as period not spent on duty. The appeal filed by the applicants had been dismissed.

3. By virtue of the present application, they seek quashing of the above said orders.

4. Learned counsel for the applicants had alleged that there was no proper enquiry because the defence of the applicants has not been considered. He further contended that, in fact, there was no evidence against the applicants and even on facts, submissions were made that when the message was received in this regard, they were busy changing the Stepney and thus could not react immediately in this regard.

5. At the outset, we deem it necessary to mention that ordinarily this Tribunal will not re-appreciate the evidence as if it was a court of appeal. If the findings of the

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authorities are perverse, based on no evidence or no reasonable person would come to such a conclusion, this Tribunal would venture to upset those findings. Furthermore it is a settled principle that like a criminal trial, the department is not required to prove the charges beyond all reasonable doubts. Decision can be on preponderance of probabilities but it should be a reasonable view.

6. When the present case and the facts are considered on the touch-stone of the above said principle, it is obvious that the submissions of the learned counsel for the applicants necessarily must fail. Perusal of the report of the enquiry officer clearly indicates that the enquiry officer had considered the evidence on record and thereafter had given the findings holding that the charge as such, is substantiated. It is not a case, therefore, where the said evidence has totally been ignored to provide a pavement to the applicants to assail the said findings.

7. Similarly the other contention that the matter is based on no evidence, necessarily has to be rejected. The enquiry officer noted that though the public ~~person~~ ~~Notice~~ could not be traced, it was in evidence that ASI Girish Chander had flashed the message to the applicants when a Maruti Car after making fire at Bus Stand, Nangal had fled towards Uttam Nagar. The plea of the applicants that they were changing the Stepney of the vehicle has been rejected. The finding, therefore, is based on material evidence on record and does not require re-appraisal. It is a reasonable view that has been taken and keeping in view the same, we are of the

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considered opinion that there is no ground to quash the impugned orders.

8. Resultantly the present application must fail and is dismissed.

Announced.

V.K. Majotra
(V.K. Majotra)
Member(A)

V.S. Aggarwal
(V.S. Aggarwal)
Chairman

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