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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2312/2001

New Delhi, this the 8th day of April, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Hari Darshan
(D-1/65)
s/o Shri Ran Singh
r/o 805, Timarpur
Delhi-54

. . . Applicant

(By Advocate: Shri Shyam Babu)

Versus

1. Govt. of NCT of Delhi
through its Chief Secretary
5, Sham Nath Marg, Delhi

2. Commissioner of Police
Delhi
Police Headquarters
IP Estate
New Delhi

3. Joint Commissioner of Police
Northern Range
Police Headquarters,
ITO, New Delhi

. . . Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R

Shri Govindan S. Tampi:

Heard S/Shri Shyam Babu and Ajesh Luthra, learned
counsel for the applicant and the respondents
respectively.

2. The applicant, Hari Darshan was served with following
summary of allegations, which reads as below:-

"It is alleged against you, Insp. Hari
Darshan No.D-I/65, SHO/Ashok Vihar and
Insp. Ravinder Kumar No.D-I/835, Addl.
SHO/Ashok Vihar that on the night of
30/31.3.1998, both of you conducted a
raid at H.No.2112/1-A, Prem Nagar, Delhi
in the area of PS Parel Nagar at 4.15 AM
and recovered illicit liquor. Both of
you were required to seize the recovered

illicit liquor through seizure memo and also to hand-over the same to Addl. SHO/Patel Nagar and SI Shatrughan of P.S. Patel Nagar whom you showed the recovered illicit liquor on the spot. Both of you failed to take lawful action and did not ensure the registration of an Excise Act case at PS Patel Nagar. Both of you also failed to check malafide intention of ASI Raghbir Singh, I.O. of case FIR No.152/98 u/s 61/1/14 Excise Act, PS Ashok Vihar in releasing the accused Dharma Ram on the surety of Gopal Taneja, accused arrested on the same day in other case FIR No.151/98 u/s 61/1/14 Excise Act, P.S. Ashok Vihar which shows your callous attitude towards duty.

The above act on the part of you, Insp. Hari Darshan No.D-I/65, SHO/Ashok Vihar and Insp. Ravinder Kumar No.D-I/835, Addl. SHO/Ashok Vihar amount to gross negligence, carelessness and dereliction in the discharge of your official duties which render both of you liable to be dealt with departmentally as per the provisions of Delhi Police (Punishment & Appeal) Rules, 1980."

3. In the departmental inquiry proceedings initiated thereafter, the inquiry officer found that "all the charges levelled against the applicant stood proved". After examining the report along with the representations filed by the applicant, the Joint Commissioner of Police, Northern Range, Delhi, in his capacity as Disciplinary Authority, imposed on him by order No.5900-925/P.Call (Vig.)P-I dated 18.4.2000 the penalty of forfeiture of one year's approved service temporarily by reducing his pay from Rs.8300/- PM to Rs.8100/- PM and denying the increment during the period. The appeal filed on 31.5.2000, duly reminded on 13.3.2001 and, 14.6.2001 had not been acted upon. Hence this OA.

4. Grounds raised by the applicant are as below:-

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- i) impugned order dated 18.4.2000 passed by the Joint Commissioner of Police, Northern Range, Delhi was issued by the said authority without compliance, as he had been transferred on 21.10.1999 to the jurisdiction of Joint Commissioner of Police/Armed Police, Rule 14 (iv) Delhi Police (Punishment & Appeal)) Rules had been vitiated;
- ii) Inquiry officer was wrong in his findings that the applicant should have ensured the registration of a case at P.S. Patel Nagar, as he had handed over the liquor, the decision of which arose from the information he received to those at Patel Nagar;
- iii) the applicant was assured by the staff attached to P.S. Patel Nagar that the necessary case under the Excise Act would be registered. Their failure or reluctance to do so should not be brought to his doorstep;
- iv) the applicant, on finding that the officer at P.S. Patel Nagar, did not register the case as promised, brought it to the notice of his superiors, which led to a vigilance inquiry. The applicant's action has been totally above board;
- v) it has been brought out on record that the officers of P.S. Patel Nagar were able to recover the liquor only on account of the informations provided by the applicant;

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vi) the seizure having been effected in the jurisdiction of P.S. Patel Nagar, preparation of seizure memo at P.S. Ashok Vihar did not at all arise;

vii) the charge that concerned senior officers were not informed was totally wrong; and

viii) the applicant had acted correctly and he could not be faulted.

All the above points were forcefully reiterated by Shri Shyam Babu, learned counsel during the hearing.

5. In the reply filed on behalf of the respondents through Shri Ajesh Luthra, learned counsel, it is submitted that the applicant has been penalised for the procedural lapse committed by him in dealing with the case, as he had failed to complete the seizure formalities of liquor before entrusting the officers of P.S. Patel Nagar with the goods and also as he had failed in his supervisory capacity in not advising the ASI Ranbir Singh against the release of the accused on bail, supported by a person, against whom a FIR has already been registered. Proceedings have been gone through correctly and the applicant had been dealt with as was required. The applicant, a responsible police officer having the charge of SHO, had not taken action as was expected of him but had been remiss in his duty and, therefore, he has been penalised. He should have completed the requisite formality and handed over the seized material so that proper procedure under the Excise

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Act could have been followed. He cannot, in the above circumstances, escape penal liability for his failure. Even otherwise, the penalty of forfeiture of one year's approved service temporarily for a period of one year with reduction in his pay from Rs.8300/- PM to Rs.8100/- PM as well as the direction that no increment would be earned during the period of reduction, is a lighter punishment, keeping in view the misconduct proved against him. It was not ^{sufficient to have} brought to the notice of SI and Addl. SHO of P.S. Patel Nagar about the recovery of illicit liquor but it was necessary that he should have handed it over after formal registration of a case. The inquiry authority had carefully gone through the submissions made by him at the end of the proceedings and had recorded his findings thereon. The applicant's failure to take the normal steps as was expected of a prudent officer after locating and recovering the illicit liquor had caused him the punishment. This was only proper. The applicant cannot, in the above circumstances, plead that he should have been dealt with in a lenient manner. The OA, therefore, should be dismissed, urges Shri Luthra.

6. We have carefully gone through the rival contentions and perused the documents brought on record. The applicant, among other grounds, challenges the validity of the order passed by the disciplinary authority - Joint Commissioner of Police, Northern Range, Delhi - on the ground that he was no longer under the administrative/disciplinary control of the said officer but was under the Joint Commissioner, Armed Police, as before the issue of the charge-sheet preceding the imposition of penalty, he had been transferred from his

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old charge. The applicant seeks to rely upon Rule 14 (iv) of Delhi Police (Punishment & Appeal) Rules, 1980, the same, however, would not come to his assistance as the proceedings had been initiated by issue of the charge-sheet, summary of allegations, etc. when the applicant was working under the administrative control of the Joint Commissioner of Police, Northern Range, Delhi. It was only on the much later date, the applicant was transferred to Security Cell under a different Joint Commissioner of Police. Therefore, he cannot allege that the respondents have violated the aforesaid Rule 14 (iv). In fact, the case is clearly covered by Rule 14 (iii) whereunder the officers have been vested with powers for dealing with the subordinate officers irrespective of the jurisdiction and the disciplinary control. This argument of the applicant, therefore, has to fail.

7. Coming onto the merits of the case, we have to record that while exercising powers of judicial review, we are precluded from acting as an Appellate Authority, putting our shoes into those of the Appellate Authority, while dealing with disputed cases. Appreciating or re-appreciating the evidence is not a task which the Tribunal/Courts are permitted to perform. Therefore, we work within specific parameters, while dealing with disciplinary matters. In that scenario, we find that the applicant has failed in his duties both as an original authority and in his supervisory capacity with regard to the disposal of the seized material - illicit liquor. It cannot be the case of the applicant that it is a case of no evidence. The only plea the applicant raises in his somewhat lengthy pleadings is that he had informed the SI

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and the Addl. SHO of P.S. Patel Nagar, being present along with them, of the presence of the illicit liquor, which had been taken over by those attached to P.S. Patel Nagar. While it is true that the applicant, who was working as SHO, P.S. Ashok Vihar, had facilitated the detection of the case by those attached to P.S. Patel Nagar and that too, on his own admission, on the information received by him, the fact remains that he had left it to the discretion of those in P.S. Patel Nagar and did not take steps to have the seized goods properly accounted for and ensured that the case was registered. Coming as it does from a senior Inspector of Police working as SHO, this was a clear breach of his responsibility and a misconduct. The applicant has, therefore, been properly proceeded against and at the culmination of the proceedings, penalised. Nothing has been brought on record to show that any of the proceedings was vitiated or that any infirmity had occurred in the proceedings. We also observe that seen against the nature of the misconduct alleged and proved, the imposition of the punishment of forfeiture of approved service of one year with reduction in pay and stoppage of increments for the said period, cannot be termed as any penalty too severe or unconscionably high as to shock the judicial conscience. The action of the respondents, therefore, in our view, cannot be assailed.

8. In the above view of the matter, OA having no merit fails and is accordingly dismissed. No costs.

S. Raju
(Shanker Raju)
Member (J)

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Govindan S. Tamai
Member (A)