

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 24/2001

This the 25th day of September, 2002

HON'BLE SH. KULDIP SINGH, MEMBER (J)
HON'BLE SH. M.P. SINGH, MEMBER (A)

Jitender Singh
S/o Sh. Bhoorey Singh
R/o A-102/C, Mansa Ram Park,
Uttam Nagar, New Delhi-110059.

(By Advocate: Sh. Shakeel Ahmed)

Versus

The Commissioner of Police, Delhi
M.S.O.Building,
I.P.Estate, New Delhi-110001.

(By Advocate: Ms. Renu George)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant who was a Constable in Delhi Armed Police was proceeded departmentally on the allegations that applicant with other officials while posted in III Bn., DAP were detailed for command duty to escort undertrials (i) Suresh S/o Jagbir (ii) Ajeet S/o Bhim Singh (iii) Jai Pal S/o Balwan and (iv) Jai Bhagwan S/o Duli Chand from Gurgaon (Haryana) for production in Tis Hazari Court, Delhi on 15.10.94. During the course of checking at 12.30 p.m. on 15.10.94 they were found eating food alongwith the undertrials in a Dhaba at Tis Hazari Court, Delhi. Moreover, they had not made arrival entry in Roznamcha at O.D. Lock-up. The applicant thus had violated instructions contained in S.O. No.52 and instruction issued from time to time by the senior officers. The above act on the part of above staff amounts to gross-misconduct, negligence and indiscipline which renders them unbecoming of a Govt. servant/Police officers and liable to be dealt with departmentally under Rule 15 of Delhi Police (Punishment & Appeal) Rules, 1980.

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2. An enquiry was held and vide order Annexure A-2 punishment was awarded to the applicant by reducing the pay by one stage from Rs.970/- p.m. to Rs.950/- p.m. in time scale of pay (Rs.950-20-1150-EB-25-1400) for a period of five years with immediate effect. He will not earn increment of pay during the period of reduction and on the expiry of this period reduction will have the effect of postponing his future increments of pay.

3. Applicant preferred an appeal against the said order which was also dismissed. By filing this OA applicant has assailed the order of the disciplinary authority as well as the order passed by the appellate authority. Applicant has taken up a ground that in this case a preliminary enquiry was held but copy of the same has not been supplied to the applicant. Thus, applicant has been seriously prejudiced in his defence and principles of natural justice have also been violated. In order to find out whether a preliminary enquiry was held or not applicant referred to Annexure A-4 which is a copy of the order dated 30.3.99 passed by the Commissioner of Police in a revision petition filed by Constable Birju Singh who was also a co-delinquent official alongwith the applicant and as the charge reveals, all the persons who have been tried jointly in the enquiry were facing the same charges. In the revision petition order, the Commissioner of Police had observed that since the delinquent official was not supplied copy of the preliminary enquiry report, this is a serious flaw which vitiates the DE.

4. Therefore, keeping in mind the principles of natural justice and totality of the circumstances, the order of punishment was set aside and case was remanded back to the disciplinary authority to take up the DE from the stage of the

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preliminary enquiry report. Since the applicant is also similarly situated, he was also not been supplied with the copy of the preliminary enquiry report and he cannot be treated in distinction to other four delinquent officials. Since the department has itself taken a view that the supply of copy of preliminary enquiry report is necessary, so in this case also applicant should have supplied a copy of the preliminary enquiry report.

5. Keeping in view of the plea taken by the applicant, we quash the impugned order and set aside the punishment order and remand the case back to the disciplinary authority from the stage of initiation of DE and to make a final order within a period of 4 months from the date of receipt of a copy of this order. However, respondent is at liberty to make an appropriate final order, keeping in view the seriousness of the defence.



(M.P. SINGH)
Member (A)



(KULDIP SINGH)
Member (J)

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