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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2711/2001

This the 2nd day of September, 2003

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

Ex. Asstt. Sub-Inspector Amer Singh No. 1083/D
s/o Shri Nanwa aged about 52 years
r/o H.N. 139, Malik Pur,
Kingsway Camp, Delhi

...Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. Union of India
through its Secretary
Ministry of Home Affairs, North Block
New Delhi
2. Addl. Commissioner of Police
Special Branch,
Police Headquarters, IP Estate
MSO Building, New Delhi
3. Dy. Commissioner of Police
Special Branch,
Police Headquarters, IP Estate
MSO Building, New Delhi

...Respondents

(By Advocate: Shri George Parackal)

O R D E R

Shri Justice V.S. Aggarwal:

The applicant was an Assistant Sub Inspector of Police. He faced departmental proceedings and the disciplinary authority imposed a penalty of dismissal from service upon him. His appeal was dismissed. By virtue of the present application, the applicant seeks quashing of the said orders with consequential benefits of reinstatement in service, including arrears of pay.

2. Some of the relevant facts are that the applicant while he was posted in East Zone was entrusted with the verification of personal particulars of Shri Savinder Kumar and his wife Smt. Kanchan both residents



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of C-269, Vivek Vihar, Delhi. The applicant allegedly conducted the verification and submitted his reports with respect to both the said persons. He verified the stay of both the said persons at the addresses given for more than one year. A clear report was sent to the Regional Passport Office, Delhi. Later on a letter was received from the Regional Passport Office intimating that the documents, educational certificate, ration card, etc. furnished by both the persons appeared to be forged. A request was made for re-inquiry. The reports were submitted on re-verification. It was established that the reports submitted by the applicant were false and bogus. Those persons never resided at the given addresses and that the applicant had conducted bogus and false verification.

3. Departmental inquiry was entrusted to an Assistant Commissioner of Police who completed the same and concluded that the charge stood proved.

4. The charge against the applicant was on the lines of what we have indicated above and reads:-

"Charge

I, S.K. Bhatnagar, ACP/SB (E.O) charge you ASI Amar Singh No.1083/D that you while posted in East Zone/SB was entrusted with the verification of personal particulars of Sh. Savinder Kumar and his wife Smt. Kanchan both R/o C-269, Vivek Vihar, Delhi who had applied for passport vide RPO's File Nos.B- 038894 and B-038895 dated 4.11.99 and their P.P. Forms were received in this office vide Dy. No.46081-B, dated 9.11.99 and 46082-B,

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dated 9.11.99 respectively. You conducted the verification and submitted your enquiry reports in respect of both the abovenamed applicants on 14.11.99 verifying the stay of both the above applicants at the given address for more than one year. You also attached the statements of two referees in support of your version. Accordingly, clear reports were sent to RPO, Delhi vide this office letter No.35406-A, dated 2.12.99 and 35309-A, dated 1.12.99 respectively.

Lateron, a D.O. letter No. B-38894/B-38895 dated 13.12.99 was received from RPO, Delhi intimating therein that the document, educational certificate, ration cards etc. furnished by both the above applicants appeared to be forged and requested for re-enquiry in both these cases. As such the abovementioned verification reports submitted by you in respect of Savinder Kumar and Kanchan were got re-verified by ACP/Inspr./East Zone/SB. During re-verification it has been established that the verification conducted and enquiry reports submitted by you in respect of both the above applicants are totally false/bogus. Both the applicants never resided at the given addresses even the referees cited by you during verification i.e. Rajpal Singh R/o C-264, Vivek Vihar, Delhi and Pradhan Singh R/o C-260, Vivek Vihar, Delhi also never resided at the respective addresses.

The above facts clearly indicate that you ASI Amar Singh, No.1083/D had conducted false/bogus verifications with ulterior motives without visiting the given address of the passport applicants as per the required procedure. Had you visited the given addresses real facts would have been detected at the initial stage and a negative reports would have been sent to RPO Office in these cases.

The above act on the part of you ASI Amar Singh, No.1083/D amounts to gross negligence, carelessness and unbecoming of a Govt. Servant in the discharge of your official duties for which render you liable for departmental action under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980."

The disciplinary authority accepted the report of the inquiry officer, as already pointed above and opined that

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it was a grave misconduct regarding which no leniency should be shown and recorded:-

"In the instant case the delinquent has conducted a bogus passport verification which is a grave misconduct and no leniency whatsoever can be shown as it would send wrong signals down the ranks. It is also not too difficult to visualise a scenario where he could have facilitated terrorists and anti-national elements in procuring passports. Clearly, his further retention in a disciplined force like ours would be hazardous for the force."

After the appeal having been dismissed, the present application has been filed.

4. The learned counsel for the applicant contended that the perusal of the charge framed clearly shows that there was no previous bad record of the applicant. Thus, he cannot be declared to be an incorrigible type of person. Consequently, the extreme penalty of dismissal should not have been imposed. The learned counsel presses into service Rule 10 of the Delhi Police (Punishment & Appeal) Rules, 1980, which is to the following effect:-

"10. Maintenance of discipline - The previous record of an officer, against whom charges have been proved, if shows continued misconduct indicating incorrigibility and complete unfitness for police service, the punishment awarded shall ordinarily be dismissal from service. When complete unfitness for police service is not established, but unfitness for a particular rank is proved, the punishment shall normally be reduction in rank."

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5. Perusal of the aforesaid would clearly show that the same comes into play only where complete unfitness from the work and conduct is established. This is based on the recognised principle that discipline in the service has to be maintained. It, in so many words, does not state that even for a single mistake a person cannot be dismissed from service.

6. In that event, it was contended further that ulterior motive urged in the charge has not at all been proved and, therefore, the extreme penalty could not have been imposed upon the applicant. We have already referred to above the reasonings of the disciplinary authority. He has clearly noted that it was a bogus passport verification and it was held to be a grave misconduct. It is within the domain of the disciplinary authority to decide as to what penalty, if any, should be imposed. Unless it is totally perverse or shocks the conscience of the Tribunal, we would not interfere. We find that the present case is not one of the cases referred to above. Therefore, there is little scope for interference.

7. Pertaining to the conduct of disciplinary authority, the learned counsel for the applicant at the first instance contended that the inquiry officer conducted the proceedings not in accordance with the settled principles and cross-examined the witnesses. Even on this count, the contention must fail. The reasons are obvious. The inquiry officer for the purpose

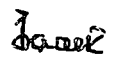
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of clarification can certainly ask questions unless he crosses the limit of being an inquiry officer. In the present case, our attention has not been drawn to any such questioning wherefrom we could hold that such questions were not for the purpose of clarification and ellucidation of instructions. The plea must fail.


8. The only other contention thereafter raised was that supplementary statments of certain witnesses, who were called earlier, had been recorded afresh and thereafter the applicant had not been granted any fresh opportunity to rebut that evidence. We do not dispute the fact that whenever additional evidence is submitted or the statements are recorded afresh, an opportunity to rebut the said evidence should be granted. However, in the present case before us, the applicant has not raised such a plea in the application. In the absence of such a plea having been raised, we do not deviate from the settled principles that the facts which are not pleaded cannot be allowed to be agitated. The plea must fail.

9. No other argument was raised.

10. For these reasons, the original application being without merit must fail and is dismissed. No costs.


(S.K. Naik)
Member (A)

/sns/


(V.S. Aggarwal)
Chairman