

Central Administrative Tribunal  
Principal Bench  
OA 2713/2001

Q

New Delhi, this the 29th day of April, 2002

Hon'ble Dr.A.Vedavalli, Member (J)  
Hon'ble Sh.Govindan S.Tampi, Member (A)

Shri Badloo Khan  
S/o Shri Durri Khan  
Village - Mena, P.O.&P.S.Khurja  
District - Bulandshahr, Uttar Pradesh.  
... Applicant  
(By Shri Sachin Chauhan, Advocate)

1. Union of India  
through  
Secretary  
Ministry of Home Affairs  
North Block  
New Delhi.
2. Addl. Commissioner of Police  
Special Branch  
Police Headquarters  
I.P.Estate  
MSO Building  
New Delhi.
3. Dy. Commissioner of Police  
Special Branch  
Police Headquarters  
I.P.Estate  
M.S.O.Building, New Delhi.

... Respondents

(By Mrs. Sumedha Sharma, Advocate)

Hon'ble Sh.Govindan S.Tampi, Member (A)

ORDER(Oral)

In this OA the applicant seeks to assail the  
order of his ~~dismissal~~ from Service, passed on 2.8.2000,  
by the Deputy Commissioner of Police, Delhi as well as  
confirmation of the same by appellate authority i.e.  
Addl. Commissioner of Police on 3.1.2001.

2. Shri Sachin Chauhan, learned counsel  
appeared for the applicant and Smt. Sumedha Sharma,  
learned counsel for the respondents.

1  
2

3. Facts of the case, in brief, are that the applicant who joined as Constable on 7.10.1971 became Assistant Sub Inspector on 30.10.1989 and has been continuing in the same grade. When proceedings were initiated against him for having given a verification report of continued stay in Delhi in respect of Shri Shinderpal Singh S/o Shri Sadhu Singh, at H.No.X-325, Gali No.10, Brahmpuri, Delhi for purposes of passport, which on further enquiry was found to be incorrect and admitted so by the concerned individual. Thereafter, his explanation was called for and Summary of allegation was issued to him by the Assistant Commissioner of Police alleging grave mis-conduct, gross negligence and carelessness as well as action unbecoming of a Police officer in the discharge of his official duties. The enquiry report showed that the charge was proved. After perusing the report, applicant's reply and the record of the case the Disciplinary Authority agreed with the findings of the Inquiry Officer and awarded him on 2.8.2000 the extreme penalty of dismissal as in his view, the defaulter ASI had admitted his fault of not conducting the enquiry properly and was thus guilty of malpractice and dishonesty, in the important task of verification for passport. The same was endorsed by the appellate authority by its order dated 3.1.2001. Revision application filed by the applicant on 29.3.2001, was returned on 31.5.2001, holding that Commissioner of Police did not have powers of review.

4. Fervently arguing the case of the applicant, Shri Sachin Chauhan, learned counsel points out that the applicant was an officer with more than

28 years of unblemished record of service. He has been awarded the extreme penalty of dismissal from service for a mistake committed by him unknowingly in the verification of particulars of the applicant for passport. The applicant had discharged his duty to the best of his knowledge and ability and furnished the verification report. He had at that time explored all the avenues available to him for completing the verification and had given an honest report. He had acted properly throughout, though the result of verification was found to be wrong subsequently. Though he had not at all acted malafide or dishonestly, <sup>and served the organisation properly</sup> the imposition of extreme penalty of dismissal of service on him, had washed away all the loyal service he had put in the organisation. The penalty imposed on him was excessive, harsh and totally disproportionate to the charge against him. This was a case where the Tribunal should intervene and come to the rescue of the applicant and save him and his family from penury, pleads Shri Chauhan. He also relied upon the OA No. 1337/2001, filed by Anoop Singh, a similarly placed Asstt. Sub Inspector, which was allowed by this very Bench on 14.2.2001.

5. Rebutting strongly the points raised on behalf of the applicant, Smt. Sumedha Sharma learned counsel for the respondents, states that applicant Shri Badloo Khan, who had been entrusted with the important job of verification of residential and personal particulars of some one who had applied for a passport had failed to discharge his duties properly. In times like these when movements in and out of the country of individuals are under constant watch to prevent any

(P)

mishaps and to avoid any danger, issue of passports has assumed great significance. Verification of the particulars of those who apply for passport is a very important function and a Police Officer, entrusted with that job cannot afford to act carelessly, as the applicant in this case has done. As the applicant has failed to discharge his duties, in the manner expected of him respondents were forced to take the impugned steps to penalise the impropriety and irregularity committed by him. Keeping in mind the grave misconduct, committed by him, the respondents could not have taken any steps less harsher than the one they had taken. As the respondents has acted strictly in accordance with the law, rules and procedure, there was no ground for any interference in the matter by the Tribunal, according to Smt. Sharma. She also referred to the decision of the Hon'ble Apex Court in the case of Union of India vs. R.K. Sharma (2002 (II) SLT (I) 323) and

prayed that the Tribunal may not interfere in this matter.

6. We have carefully deliberated upon the rival contentions and examined the facts brought on record. Facts are undisputed. The applicant an experienced and long serving Assistant Sub Inspector of Police, was entrusted with the special task of verifying the residential and personal particulars in respect of one Shinder Pal Singh s/o Sadhu Singh stated to be the resident of H.No.X-325, Gali No. 10, Brahmputri, Delhi, for the purposes of issue of passport. He did so and certified that the individual was residing in the said address for two years on the basis of which

13

the passport was issued. Subsequently it was found that the individual had not stayed in the address at all. It is evident, therefore, that the applicant had failed to conduct the verification properly and report correctly. This is indeed a failure and is an action unbecoming of a Police Officer, specially keeping in mind the nature of the reliance placed by the Police Organisation in him for performing this important task. As very correctly pointed out by the learned counsel for the respondents Smt. Sharma, in these troubled times, when utmost care is expected to be taken in the entire process of issuance of passport, verification of the residential and personal particulars of any one seeking a passport, is a delicate and sensitive job. The applicant's having failed in the discharge of this duty, the action taken by the respondents, in initiating proceedings against him and imposing a penalty on him cannot at all be assailed. The same deserves our endorsement. At the same time we note that no ulterior motive, <sup>pecuniary</sup> or otherwise is found to have been alleged or proved against this applicant in this case. While the performance of the impugned task pointed to negligence in discharge of duties, there is nothing on record showing that the applicant was guilty of any or deliberate mischief or dishonesty. We also note that the applicant is one who had risen to the rank of Assistant Sub Inspector after 18 years of unblemished record of service and had continued in that position, till the instant proceedings. In the above scenario, imposition of the ultimate and extreme penalty of dismissal, which has the effect of wiping away the entire service of him, and throwing him and the family

dependent on him to the jaws of despair and poverty to our mind, is harsh, excessive and unconsciounably high, which shocks our judicial conscience. We recall that in somewhat similar circumstances we had allowed OA No. 1337/2001 on 14.2.2002, and had advised the respondents to reconsider the matter and pass an order, imposing any penalty less harsh than removal, which had been ordered in that case. While passing the above order, we were fortified by the findings of a coordinate Court in the Principal Bench in OA 2526/96 filed by Sohan Lal, decided on 31.5.2000 in identical circumstances, wrong verification of residence of applicants for passport. The Tribunal had, in the said OA quashed and set aside the orders of the disciplinary authority and the appellate authority and remanded the matter for reconsideration of the penalty, commensurate with the gravity of the charge raised and proved against the applicant, but declining to substitute its judgement on the quantum of penalty, relying upon the decision of the Hon'ble Supreme Court in the case of B.C.Chaturvedi vs. Union of India of 1995(8) SC 65. We have no doubt that a similar dispensation is what is called for in this OA also.

7. We also note the reliance placed by the learned counsel for the applicant in the Hon'ble Supreme Courts decision in the case of Union of India vs. R.K. Sharma (supra). We fully bow to it. We are not in this case attempting to replace the judgement of the disciplinary authority or appellate authority by ours but are only suggesting to them to have a second look at the extent of the penalty, which

(B)

in our view, is excessive and harsh in the circumstances of the case. And this, we are sure falls well within the permissible parameters of judicial review, which we are called upon to exercise.

8. In the above view of the matter the OA succeeds to a substantial extent and is accordingly disposed of. The impugned orders by the Disciplinary Authority of 2.8.2000 and the Appellate Authority dated 3.1.2001 are quashed and set aside. The matter is remanded to the Disciplinary Authority to reconsider and decide the case afresh keeping in view our observations as to excessive and harsh nature of the penalty of dismissal and pass an order imposing any penalty lesser than dismissal or removal, commensurate with the charge. This exercise shall be completed within three months from the date of receipt of a copy of the order. The applicant shall be reinstated in service within one month from the date of receipt of a copy of this order but he shall be kept under deemed suspension and the period from 28.2.2000, the date of his suspension prior to his ~~dismissal~~, from service to the date of reinstatement shall be decided upon by the Disciplinary authority as <sup>deemed</sup> fit in the circumstances of the case and in accordance with law. No costs.

(Govindan S. Tampi)  
Member (A)

A. Vedavalli  
(Dr. A. Vedavalli)  
Member (J)

/shyam/