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Central Administrative Tribunal, Principal Bench

O.A.No.2795/2001

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New Delhi, this the 9th day of September, 2002

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

Ex. Constable Suramvir Singh  
S/o Shri Hari Singh, aged 33 years,  
R/o Vill. & P.O. Ghasola, P.S. Charkhi Dadri,  
District Bhiwani, Haryana .....Applicant.

(By Advocate: Shri Sachin Chauhan)

Versus

1. Union of India,  
through its Secretary,  
Ministry of Home Affairs,  
North Block, New Delhi.

2. Commissioner of Police  
Delhi, Police Headquarters,  
I.P. Estate, M.S.O. Building,  
New Delhi.

3. Joint Commissioner of Police,  
R.P. Bhawan,  
Police Headquarters, I.P. Estate,  
M.S.O. Building, New Delhi.

4. Deputy Commissioner of Police,  
R.P. Bhawan,  
Rashtrapati Bhawan, New Delhi

.....Respondents

(By Advocate: Ms. Renu George)

Order (Oral)

By Justice V.S. Aggarwal, Chairman

The sole submission made by the applicant's learned counsel is that the disciplinary authority, while passing the order of dismissal from service against the applicant, has taken into consideration his past record and, therefore, the impugned orders as such are invalid.

2. Our attention in this regard has been drawn towards rule 16 (xi) of Delhi Police (Punishment and Appeal) Rules, 1980 which reads as under:

"16(xi) If it is considered necessary to award a severe punishment to the defaulting officer by taking into consideration his previous bad record, in which case the previous bad record shall form the basis of a

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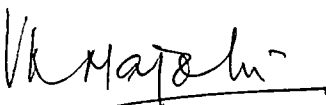
definite charge against him and he shall be given opportunity to defend himself as required by rules."


3. Perusal of the above said rule clearly shows that if the previous bad record of the concerned person has to be taken note of, then the previous bad record shall form part and basis of a definite charge. This is based on well recognised principle of natural justice that a person concerned should not be dealt with severely without giving him an opportunity of being heard.

4. In the present case in hand, perusal of the charge served on the applicant clearly reveals that (a) it is based on absence of more than six months; and (b) canvassing for political party. The order passed by the disciplinary authority dated 5.3.98 clearly shows that the disciplinary authority has indeed taken into account the past record of the applicant and even referred to his being an incorrigible police officer. This was not a part of any separate charge.

5. Keeping in view the aforesaid, indeed the impugned order imposing the punishment of dismissal from service stands vitiated. Necessarily it must be set aside alongwith the subsequent orders of appeal and the revision.

6. For these reasons, we allow the application and quash the impugned orders. It would be, however, open to the disciplinary authority to pass an appropriate order from the stage the same has been set aside.

  
( V.K. Majotra )  
Member(A)

  
( V.S. Aggarwal )  
Chairman

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