

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
OA NO.389/2001

(R)

NEW DELHI, THIS THE 28TH DAY OF AUGUST, 2002

HON'BLE MR.JUSTICE V.S.AGGARWAL, CHAIRMAN
HON'BLE MR.V.K.MAJOTRA, MEMBER (A)

Jasbir Singh
No.129/NW
North-West Distt.
Ashok Vihar, Delhi.

.... Applicant

(BY SHRI ARUN BHARDWAJ, ADVOCATE)

vs.

1. Union of India
Through Lt. Governor
Govt.of NCT of Delhi
Raj Niwas Marg
Delhi.
2. Commissioner of Police
Police Head Quarters
IP Estate
New Delhi.
3. Additional Commissioner of Police
Armed Police, PHQ, IP Estate
Delhi.
4. Deputy Commissioner of Police
Ist Bn. DAP
Delhi. Respondents

(Shri Mohit Madan, proxy for Mrs.Rashmi Chopra,
counsel for the respondents)

ORDER

JUSTICE V.S.AGGARWAL: (oral)

Applicant had been appointed as a Constable in Delhi Police and had been promoted as a Head Constable in the year 1990. On 20.4.1995, the applicant was detailed for duty at Police Station Model Town, Delhi. He was seved with charge for dereliction of duty which reads as under:-

" I S.S.Bali Astt. Commissioner of Police North West Distt. Delhi Charge you ASI Rajender Singh No.2695/NW (PIS No.28740382) and HC Jasbir Singh No.129/NW (PIS No.28790425) under the gross misconduct, negligence and dereliction in discharge of your

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official duty that while you were posted at PS Model Town one pistol No.632 body No.T-3664452 with 10 cartridges was issued to you ASI Rajender Singh No.2685/NW by MHC(M) for govt.duty on 20.4.95 with proper entry in the arms issue register. You ASI did not deposit the weapon till 24.4.95. HC Jaipal Singh MHC(M) PS Model Town asked you ASI to deposit the pistol in the Malkhana. You ASI informed that you had handed over the pistol to HC Jasbir Singh No.129/NW on 21.4.95 for depositing it in malkhana who was the duty officer at that time. You HC Jasbir Singh No.129/NW admitted that you took the pistol from ASI Rajender Singh but you did not deposit it in the malkhana and put the same in the drawer of table of the duty officer after finishing your duty and went away. You ASI Rajender Singh No.2805/NW and HC Jasbir Singh no. 129/NW both did not bring the facts to the notice of senior officers."

It was followed by the departmental enquiry and the charge was reported to have been proved. The Deputy Commissioner of Police awarded a punishment of forfeiture of 2 years approved service permanently for a period of 2 years entailing reduction in the pay of the applicant from Rs.4050/- PM to Rs.3880/- PM in the time scale of pay during the period of reduction and on the expiry of the period, the reduction will have the effect of postponing the future increments of pay. His suspension period was decided as not spent on duty. The appeal filed by the applicant has since been dismissed and the same was the fate of the revision petition preferred by the applicant.

2. By virtue of the present application, the applicant assails the abovesaid orders contending that on the date i.e. on 20.4.1995, he was performing the duties of a duty officer and Shri Ajaib Singh was functioning as daily diary writer. ASI Rajinder Singh had come and asked the applicant to take the pistol to deposit the same in the Malkhana. ASI Rajendar Singh had put the pistol on applicant's table and had gone. Applicant had given the pistol to Ajaib Singh who had put the same in his drawer. ASI Rajendar Singh had asked Ajaib Singh to deposit the pistol in the Malkhana. As per the applicant, pistol No.633 is still in the department and has not been lost and the findings, therefore, on this count are totally erroneous.

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3. In the counter filed by the respondents, the application as such has been contested. The respondents' plea is that the departmental enquiry was initiated against ASI Rajendar Singh and the applicant for misconduct, negligence and dereliction in discharge of their official duties. ASI Rajendar Singh had asked for deposit of the pistol in the Makhana. The pistol had been handed over to the applicant. Applicant had admitted that he had taken the pistol from ASI Rajendar Singh but had not deposited the same in the Makhana and later on the pistol was found to have been lost and the applicant had been held responsible. (19)

4. During the course of arguments, the learned counsel for the applicant argued that the pistol in fact was No.633 and the same is still available with the department and consequently, the applicant could not have been held responsible for the loss of the pistol. We deem it unnecessary to venture into this controversy. This is a controversy of fact. No such defence had been raised at the initial stage. During the course of the proceedings altogether a new plea is being floated. It is too late in the day to raise such a controversy. Therefore, the contention as such deserves to be rejected.

5. In that event, it was contended that the applicant had not been negligent and it was not his duty to deposit the pistol in the Makhana. For the purpose of the present application suffice to say that the charge against the applicant is not pertaining to a statutory duty that may be imposed. He had admitted that the pistol had been given to him. Having accepted the same, it was his duty thereupon to ensure that he took care of the same which he failed to do. Consequently on that count, it cannot be stated that the applicant should be exonerated and by any stretch of imagination, it cannot be held that the applicant had not been responsible for the loss of the pistol.

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6. The facts clearly indicate that the pistol had been given to the applicant. It has been established that the applicant had kept the same in the drawer but later on because of his act of negligence, it had been lost. These findings of fact do not require any review of reconsideration. There is no error on the face of the record to make us conclude that the findings are perverse and are of such a nature that no reasonable person would have arrived at. We, therefore, need not probe further into the matter. For these reasons, the Original Application being without merit must fail and is accordingly dismissed. No costs.

Announced.

V.S. Aggarwal
(V.S. AGGARWAL)
CHAIRMAN

V.K. Majotra
(V.K. MAJOTRA)
MEMBER (A)