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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.895/2001

Tuesday, this the 15th day of January, 2002

Hon'ble Shri Justice Ashok Agarwal, Chairman  
Hon'ble Shri S.K. Agrawal, Member (A)

ASI Nempal  
No. 203/D  
R/o C-121  
Ganga Vihar  
PS Gokulpuri  
Delhi

..Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Union of India through  
Ministry of Home Affairs  
North Block, New Delhi
2. Commissioner of Police  
Police Head Quarter  
I.P.Estate, New Delhi
3. Addl. Commissioner of Police  
PCR & Comn.  
PHO IP Estate  
New Delhi
4. Deputy Commissioner of Police  
Police Control Room  
PHO I.P.Estate  
New Delhi

...Respondents


(By Advocate: Shri Ashwini Bhardwaj for Shri Rajan Sharma)

O R D E R (ORAL)

Hon'ble Shri S.K. Agrawal, Member (A):

This OA is filed against the impugned order dated 1.2.2001 passed by the appellate authority dismissing the appeal filed by the applicant against the order of punishment awarded to him.

2. The facts of the case in brief are that the applicant is serving as an Assistant Sub-Inspector (ASI) in the PCR Unit. While posted in PCR Unit on the night of 11/12.6.1999, he was detailed to perform duty as I/C Van. At about 7.45 A.M. on 12.6.1999, a girl Swapan



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Kaur @ Sweety, who was waiting at Talkatora bus stop along with her mother, near the base of PCR Van V-17, was knocked down by a Contessa Car No.DLY-520. The PCR van immediately reached the scene of accident and found the injured girl lying on the road near the Contessa Car. Although the driver of the Contessa Car was caught by public and handed over to the PCR staff, but the applicant left the Contessa Car and its driver unattended at the place of accident and as a result the driver of the Contessa Car escaped from the spot along with his car. The applicant did not detail gunman or any police personnel at the spot. The applicant also failed to note down the name and address of the driver nor did he seize the driver's driving licence, other documents and the keys etc. of the vehicle. The applicant relieved the night shift Ct. (Dvr.) Munni Lal at the juncture when he was in need of manpower to preserve the scene of accident.

3. A departmental enquiry was conducted against the applicant for his gross misconduct, negligence and dereliction in performance of his official duties. The enquiry Officer, who completed the enquiry and submitted his findings, concluded therein that the charge against the applicant stands proved. The disciplinary authority, after examining the representation of the applicant, held that none of the points raised by the applicant in his representation had any force and the applicant himself had admitted in his written statement dated 13.7.1999 that he neither noted down the name and the address of the car driver nor seized his driving licence. However,



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keeping in view the totality of the circumstances of the case, the disciplinary authority took a lenient view and imposed a punishment of forfeiture of two years approved service entailing reduction in his pay by two stages from Rs.4700/- PM to Rs.4500/- PM for a period of two years. He will not earn increments of pay during the period of reduction and on expiry of this period, the reduction will not have the effect of postponing his future increments of pay.

4. Thereupon, the applicant filed an appeal which was duly considered and rejected by the appellate authority vide order dated 1.2.2001. Aggrieved by the aforesaid action of the respondents, the applicant has approached this Tribunal by filing the present OA.


5. The learned counsel appearing on behalf of the applicant has stated that the applicant had performed his duties efficiently to save the life of the victim first and provide medical aid to the injured. The applicant also denied this fact that he, as alleged, allowed the driver to run away along with vehicle. He further submitted that the rules have been violated with the malafide intention to spoil the career of the applicant. The applicant's counsel also submitted that the earlier statement of the complainant was illegally brought on record and his statement was not recorded in the presence of the applicant in the departmental enquiry. He also submitted that the enquiry officer has no power to cross-examine the defence witness and from the very beginning, the enquiry officer was performing the role of representing officer in this case. Therefore, the



impugned orders of punishment passed by the respondent-authority have not been passed with an independent and fair mind.


6. The learned counsel for the applicant was greatly relying on Rules 15 (3) of Delhi Police (Punishment & Appeal) Rules, 1980, wherein it is mentioned that the file of preliminary enquiry shall not form part of the formal departmental record, but statements therefrom may be brought on record of the departmental proceedings when the witnesses are no longer available and he, therefore, submitted that proper procedure was not followed by the respondents in this regard.

7. The learned proxy counsel appearing on behalf of the respondents has submitted that the applicant was clearly in default for his gross misconduct, negligence and dereliction in performance of his official duties. The facts are not disputed that the I/C Van did not detail Gunman or any police personnel at the spot and failed to note down the name and address of the driver nor did he seize the driver's driving licence, other documents and the keys etc. of the vehicle. The respondents' proxy counsel also submitted that proper procedure had been followed while recording the statements of the witnesses and their cross-examination during the course of preliminary enquiry proceedings and the punishment order passed by the disciplinary authority and the order of the appellate authority are quite legal, reasoned and based on evidence/material on record. In support of his contentions, the learned proxy counsel for the respondents placed reliance on two cases decided by




the Hon'ble Supreme Court in State Bank of Patiala & Ors. Versus S.K. Sharma, decided on 27.3.1996 and reported in 1996 SCC (L&S) 717 and S.K. Singh Versus Central Bank of India & Ors., decided on 19.10.1996 and reported in JT 1996 (9) SC 542.

8. We have heard the learned counsel on either side and have perused the material placed on record. We are of the considered view that the punishment awarded to the applicant was not too harsh or unreasonable looking to the facts of the case. In our view, the OA is devoid of merits and the same is accordingly dismissed without any order as to costs.

  
(S.K. Agrawal)  
Member (A)

/sunil/

  
(Ashok Agarwal)  
Chairman