

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(27)

C.P.NO.104/2004 IN
O.A.NO.1941/2001

this the 25th day of May, 2004

Hon'ble Shri V.K.Majotra, Vice Chairman (A)
Hon'ble Shri Kuldip Singh, Member (J)

Inspector Mahavir Singh Dahiya
No.D-I/632,
R/o A-24, NPL, Kingsway Camp, Delhi.

-Petitioner

(By Advocate: Shri Arun Bhardwaj)

Versus

Shri J.K.Sharma,
Addl. Commissioner of Police, Security,
Main Security Line,
Vijay Marg, New Delhi.

-Respondent

O R D E R (ORAL)

Shri V.K.Majotra, VC(A)

Heard the learned counsel for the parties.

2. OA 1941/2001 was disposed of vide order dated 4.8.2003 (Annexure CP-I) quashing the impugned order and remitting the matter to the disciplinary authority, who may if deemed appropriate, from the stage the enquiry report was received, proceed in accordance with law. Necessary steps were to be taken within four months from 4.8.2003.

3. Learned counsel of the applicant pointed out that the impugned orders were quashed by this Tribunal on the ground that the disciplinary authority had not expressed tentative opinion rather a final opinion had been expressed on the enquiry report submitted by the enquiry officer in the disciplinary enquiry.

4. He further stated that the disciplinary authority had passed an order dated 12.2.2004 (Annexure CP-2) again expressing final opinion that a

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major punishment should be awarded to the defaulter; that the disciplinary authority had not applied his mind and expressed final opinion time and again in the said orders. Thereafter, when the applicant filed this CP on 15.3.2004 and respondents were put to notice on 19.3.2004 the disciplinary authority issued addendum to insert the word 'tentatively' in line 5 at para 2 (Annexure CP-2).

5. Paragraph 2 (iii) & (iv) of CP-2 read as follows:

"iii) From the above, it is clear that Inspr. M.S.Dahiya had dis-obeyed the directions of his senior officers and avoided to attend the office of ACP/Shahdara deliberately on the above grounds. When he had attended the office of ACP/Shahdara, then he passed the above mentioned remarks towards his immediate supervisory officer i.e. ACP/Shahdara. The ACP is the direct supervisory officer of the Inspr. and if he gave him such directions for writing against the I.Os who were not doing their job properly, which were quite justify being supervisory officer, then it was incumbent upon the Inspr, to do so.

iv) P.W.2 Inspr, Vipin Kumar had also stated that Inspr. M.S.Dahiya had showed his inability to write against his subordinates for their deficiencies when directed to ACP/Shahdara. Inspr. Dahiya also replied the ACP that this sort of repetition will be of no use and will result unnecessary arguments (chick-chick Baji). Thus it is clear that Inspr. Dahiya not only dis-obeyed the directions of his senior officer but also argued the matter un-necessarily, which cannot be tolerated being a member of the disciplined force."

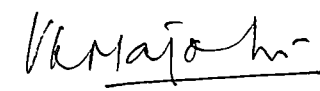
6. A perusal of Annexure CP-2, paragraph 2(iii) indicates non-application of mind by the Additional Commissioner of Police, who is a senior officer of Delhi Police. Despite the detailed observations of

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this Tribunal in the related OA, the disciplinary authority has again expressed a final opinion that a major punishment should be awarded to the applicant herein. Paragraph 2 (iv) of CP-2 also indicates that the disciplinary authority had a bias mind in reaching the final conclusion on the charge of disobedience and arguing the matter with the superior authority. The disciplinary authority ought to have passed fresh orders, keeping in view the observations of this court. Annexure CP-2 is quashed and set aside directing the respondents that if they deem appropriate a fresh order in compliance of observations of this court contained in order dated 4.8.2003 may be passed by a different disciplinary authority than the present one within a period of two months from today.

7. The C.P. is disposed of. Notices are discharged.


(Kuldip Singh)
Member (J)


(V.K. Majotra)
Vice Chairman (A)
25.5.04

/kdr/