

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1165/1999

(A)

Monday, this the 09th day of April, 2001.

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Shri Krishan Kumar (1553-E) (2831/DAP)
R/o D-503, Gali No.2, West Johri Pur,
Delhi
2. Shri Krishan Pratap (1452-E) (2207/DAP)
R/o Village Deoli, P.O. Deoli, Delhi
3. Shri Bala Krishan (1756-E) (2423/DAP)
R/o Quarter No. 9, Police Colony,
Vikas Puri, Delhi
4. Shri Jaibeer (1558-E) (2820/DAP)
R/O Barrack No.2, Vikas Prui,
Police Lines,
New Delhi

..... Applicants
(By Advocate: Shri Shyam Babu)

VERSUS

1. Govt. of NCT, Delhi
through its Chief Secretary,
5, Sham Nath Marg,
Delhi - 110 054
2. Sr. Addl. Commissioner of Police,
(Armed Police)
Police Headquarter,
I.P. Estate, New Delhi - 110 002
3. The Dy. Commissioner of Police (3rd Bn)
Kingsway Camp
Delhi

..... Respondents
(By Advocate: Shri George Paracken)

O R D E R (ORAL)

By Hon'ble Shri S.A.T. Rizvi, Member (A):

In the disciplinary proceedings against the applicants final orders have been passed on 2nd June, 1998 (Annexure-A) inflicting the punishment on each one of them of forfeiture permanently of one year's approved service for a period of four years entailing proportionate reduction in their pay and further directing that none of the applicants will earn increments of pay during the period of reduction and on

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the expiry of the said period, the reduction will have the effect of postponing their future increments of pay. (5)

The aforesaid order was carried in appeal. However, the appellate authority refused to interfere and has up-held the order passed by the disciplinary authority. The aforesaid orders have been impugned by the applicants in this OA.

2. Heard the learned counsel on either side and perused the material placed on record.

3. On the allegation of collecting money illegally from certain Truck drivers, the applicants have been formally charged in the following terms:-

"I, Insp. Ram Janam Singh, SHO/Gandhi Nagar charge you Ct. (1) Krishan Kumar 1553/E (2) Ct. Krishan Pratap No. 1452/E, (3) Ct. Balakrishnan No. 1576/E and (4) Ct. Jaibir Singh No. 1588/E that on 19.8.96 while you were posted at P.S. Kalyanpuri, a surprise checking was conducted by Insp. Satyaveer Singh (Vig.) East along with Ct. Inderjeet. During the checking at about 11.30 P.M. it was found that Constable Krishan Kumar 1553/E had stopped a Govt. Vehicle i.e. Motor Cycle No. DL-1S-J-5469 at the distance of 1/2 K.M. away from the Gazipur Check Post. Three Trucks were also seen in queue and he was collecting money from the Truck drivers coming from the side of U.P. On seeing the Insp. he tried to flee but he was followed by the Inspector. On enquiry Ct. Krishan Kumar told that Ct. Krishan Pratap No. 1452/E was also with him in this mal-practice, who had run away from the spot. It was also revealed that they were conducting the checking without any duty. Further Gazipur Check Post was checked and it was found that Ct. Jaibeer Singh No. 1588/E and Ct. Balakrishnan No. 1756/E had put the barricades in the middle of the road and both were busy in dealing with truck drivers, by stopping the trucks unauthorisedly.

The above act on the part of Ct. Krishan Kumar 1553/E, Ct. Krishan Pratap 1452/E, Ct. Jaibeer 1588/E and Ct. Balakrishnan 1756/E

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amounts to grave misconduct, corrupt activities and unbecoming of a Police Officer, which renders you liable to be dealt with departmentally, under the provision of Delhi Police (Punishment & Appeal) Rules, 1980".

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4. The Inquiry Officer submitted his report/findings which exonerated the applicants, holding that the allegations levelled against the applicants have not been substantiated. The disciplinary authority did not agree with the findings arrived at by the aforesaid Inquiry Officer and appointed another Inquiry Officer to re-enquire and submit his findings. This was done by an order dated 21.5.1997. The new Inquiry Officer went into the matter on the basis of the proceedings of the departmental inquiry and discovered certain anomalies listed at Annexure-H. Thereupon he conducted a secret inquiry into the matter and arrived at the conclusion that no manipulation could be found and that there was no evidence including documentary proof in support of the charge. Consequently he held that having regard to the aforesaid anomalies, there was no need to conduct the DE again. The disciplinary authority dis-agreed with the findings of the new Inquiry Officer also. However, copies of the Inquiry Officers' reports were supplied to the applicants and they have all submitted their respective representations in the matter.

5. The learned counsel appearing on behalf of the applicants has raised three main issues. One is with regard to the penalty imposed, which, according to him, is not in accordance with Rule 8 (d) (ii) of Delhi Police (Punishment & Appeal) Rules, 1980. The second

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contention raised is with regard to the provision of Rule 15 (2) pertaining to preliminary inquiry. The third contention raised is about the action on the part of the disciplinary authority, whereby he has chosen to dis-agree not once, but twice with the reports furnished by the Inquiry Officers.

6. Insofar as the first contention is concerned, we find that a similar case has already been decided by the full bench of this Tribunal in OA No.2225/1993 (A.S.I. Chander Pal Vs. Delhi Administration and Others) on 18.5.1999. This is how the full bench has answered the issue raised in that OA-

"The penalty of forfeiture of 'X' years approved service permanently entailing reduction in pay by 'X' stages for a period of 'X' years with the condition that the delinquent police official would not earn increment/increments during the period of reduction and on the expiry of that period the reduction would have the effect of postponing the future increments, is in accordance with law".

We are bound by the aforesaid judgement and, therefore, reject the aforesaid plea advanced by the learned counsel.

7. Insofar as the provision of Rule 15 (2) of Delhi Police (Punishment & Appeal) Rules, 1980 is concerned, the learned counsel appearing for the respondents has denied that a preliminary inquiry was ever held in this case. The report drawn up by the Inspector (Satyavir Singh) is in the nature of a checking/inspection report, and copies of the same have

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been supplied to the applicants. Thus the second plea advanced by the learned counsel for the applicants is also rejected.

8. The third plea raised is with regard to the disciplinary authority rejecting the two reports of the Inquiry Officers. We find nothing wrong in the disciplinary authority's action in disagreeing with the reports of the Inquiry Officers, whether he does it once or he does the same on two different occasions. That authority is vested in the disciplinary powers, in any case. For good and sufficient reasons, he can always disagree with or reject the findings of an Inquiry Officer. All that is necessary is that the fact of disagreement/rejection should be made known to the delinquent officials with reasons for disagreement/rejection. Moreover, the learned counsel for the applicants has not placed before us any Rule or Court judgement which would prevent a disciplinary authority from rejecting the reports/findings of two successive Inquiry Officers as in this case.

9. On going through the report of the first Inquiry Officer, we find that the statements made by the only two material witnesses in this case, namely, Inspector Satyavir Singh and Const. Inderjit corroborate each other to the extent necessary to bring home the charge on the applicants and lend support to the charge in no unmistakeable terms. The fact that the applicants had stopped certain trucks unauthorisedly stands out clearly and without any contradiction in the

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statements of these witnesses. Certain weak spots in the statements made by the aforesaid two witnesses brought to our notice by the learned counsel for the applicants do not, in our view, materially alter the situation, whether the allegation relates to putting up of barricades in the middle of the road by two of the applicants, namely, Ct. Jasbir Singh and Ct. Balakrishnan or to simple checking of trucks by the other two applicants. The fact remains that all the four applicants were found engaged in checking the trucks unauthorisedly and this allegation, according to us, stands proved on the basis of preponderance of probabilities. Further, no malafide or bias has been alleged against the Inspector (Satyavir Singh) who carried out the surprise check. We are, thus, in agreement with the orders passed by the respondents.

10. The learned counsel appearing on behalf of the applicants has additionally raised the contention that in his examination-in-chief, the aforesaid Inspector Satyavir Singh has not deposed as a witness about the facts and circumstances of the case and has instead only proved the checking report filed by him on 20th August, 1996 and finding place on the DE file. The aforesaid plea, according to us, is of no material consequence inasmuch as copies of the aforesaid Inspector's checking report were made available to the applicants and they also had full opportunity to cross-examine the said Inspector. Indeed, we find the said Inspector has been cross-examined by the Defence Assistant on behalf of the applicants. This done, we do

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not see any weakness in the prosecution's case arising from the aforesaid plea which too is rejected. 20

11. In the facts and circumstances brought out in the preceding paragraphs we find no merit in the OA which, according to us, deserves to be dismissed. The OA is accordingly dismissed with no order as to costs.

S.A.T. Rizvi

(S.A.T. RIZVI)
MEMBER (A)

Ashok Agarwal

(ASHOK AGARWAL)
CHAIRMAN

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