

Central Administrative Tribunal, Principal Bench

O.A.1257/1999

New Delhi, this the 28th day of November, 2000

(18)

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. M.P. Singh, Member (A)

Gian Chand, Inspector Applicant
Delhi Police

(By Advocate: Shri M.K.Gupta)

Versus

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

2. Govt. of NCT
Through its Chief Secretary
Govt. of Delhi, Sham Nath Marg,
Delhi

3. Commissioner of Police,
Police Headquarters
IP Estate, New Delhi

....Respondents

(By Advocate: Shri Harvir Singh)

ORDER (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

In this case, the applicant was proceeded departmentally on the allegation that he had falsely implicated one Shri Kuldeep Chand Sharma, Nayak Clerk in the Military Police in the case FIR No.96/90 under Section 15/61/85 NDPS Act, P.S. Pratap Nagar, Delhi.

2. A regular departmental enquiry was held whereafter the disciplinary authority passed the impugned order of punishment. Against that order, applicant filed an appeal which was also rejected. He then preferred a revision petition before the Lt. Governor wherein the punishment of permanent forfeiture of three years approved service was upheld. However, thereafter the department itself, probably

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exercising the power of review, issued a corrigendum (Annexure A-10) substituting one para as under:

(19)

"Further considering the evidence on record, facts and circumstances of the case, the undersigned by virtue of power vested under section 21 of Delhi Police Act, 1978 impose the punishment of forfeiture of 3 years approved service, on Insp. (Ex.) Gian Chand No.D-1/458 with cumulative effect. Accordingly, his pay is reduced from Rs.2600/P.M. to Rs.2375/P.M. in the time scale of pay for a period of 3 years with immediate effect i.e. 4.5.95. During this period of reduction, he will not earn increment of pay and after expiry of this period, the reduction will have the effect of postponing his future increments of pay."

3. Learned counsel for the applicant submits that this passing of corrigendum substituting the earlier punishment, amounts to exercise of power of review under Rule 25-B of Delhi Police (Punishment and Appeal) Rules which itself has been quashed by Full Bench of this Tribunal. Besides that, he submitted that another person, namely S.I. Shri Pran Nath who was involved in the same case and was proceeded in the common enquiry, had approached this Tribunal in OA-94/98. In his case, the impugned order had been quashed vide judgement dated 21.1.99 and the case was remitted to the respondents to hold a fresh departmental enquiry from the stage of supply of copies of documents relied upon in the enquiry. Learned counsel for the applicant further submitted that in this case also, he has taken the same plea of non-supply of relevant documents and on this ground, the impugned orders are liable to be quashed.

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4. In view of the facts and circumstances of the case that the department had exercised power of review under Rule 25-B of Delhi Police (Punishment & Appeal) Rules, the impugned have to be quashed since this rule itself has been held to be ultra vires of the provisions of Delhi Police Act, 1978. Even otherwise, the enquiry proceedings are liable to be quashed since fair opportunity of supplying relevant documents was not granted to the applicant.

5. In the result, the OA is allowed and the impugned orders are quashed. Respondents are directed to conduct fresh enquiry from the stage of supply of copies of the documents relied upon in the enquiry. The respondents shall supply copy of the report in the preliminary enquiry/vigilance enquiry to the applicant and thereafter proceed with the departmental enquiry from that stage onwards. No costs.

M.P. Singh

(M.P. Singh)
Member (A)

Kuldeep Singh

(Kuldeep Singh)
Member (J)

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