

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1383/99

New Delhi this the 21st day of January 2000

(6)

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mr. R.K. Ahoja, Member (A)

Head Constable Sultan Singh No. 358/SW
S/o Shri Amer Singh,
R/o Surat Nagar, H.No. 1783/31,
Gurgaon , Haryana

...Applicant

(By Advocate: Shri Shankar Raju)

Versus

1. Union of India,
through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Joint Commissioner of Police,
Southern Range,
Police Head Quarters, I.P. Estate,
MSO Building, New Delhi.
3. Addl. Dy. Commissioner of Police,
South West District,
Police Station Vasant Vihar,
New Delhi.
4. Dy. Commissioner of Police,
Licensing/H.Q.,
Police Head Quarters, I.P. Estate,
MSO Building, New Delhi.

...Respondents

(By Advocate: Shri Ajesh Luthra)

ORDER (Oral)

By Mr. R.K. Ahoja, Member (A)

The applicant a Head Constable is aggrieved by the order of the Disciplinary Authority by which he has been imposed a penalty of Censure and by the order of Appellate Authority by which his appeal has been rejected.

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2. The facts of the case are that the applicant was served with a show cause notice stating that on the intervening night of 12/13-6-98 at about 11.30 P.M. the Asstt. Commissioner of Police Headquarters (Vigilance) had found one Motor Cycle of Police Station Sarojini Nagar on which the applicant alongwith Constable Satbir Singh were riding stopped a commercial truck near Kamal Cinema. The Assistant Commissioner of Police noticed that the occupant of the truck gave something to the applicant who kept that in his pocket. After that the truck and Motor Cycle drove away quickly from the spot. It was alleged that the aforesaid fact of the applicant amounted to gross negligence, carelessness and dereliction in the discharge of his official duties.

3. The applicant in his reply stated that when he reached the crossing near Kamal Cinema, he had to stop because of the red light. In the meanwhile one truck and another vehicle also reached there and stopped. One person came down from the left side of the truck and asked him the way leading to Jaipur via Daula Kuan. The applicant gave him the directions after reading the address on a paper shown by that person and for which he had to use his spectacles. After replying to this person the applicant had put back the spectacles in his pocket and thereafter on change of the signal light he had proceeded on further on his duty. The applicant stated in

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his reply that the Asstt. Commissioner of Police was watching the incident from a distance of about 200 yards and could not have made out as to what the applicant has put in his pocket.

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4. We have heard the counsel and considered the aforesaid reply and impugned order of the disciplinary Authority imposing the penalty of Censure passed. Shri Shankar Raju learned counsel for the applicant submits that the aforesaid order of the Disciplinary Authority is liable to be set aside on three grounds. Firstly, he contends that the applicant did not have an opportunity to give his defence as the report of the Asstt. Commissioner of Police was not given to him alongwith the show cause notice. The second contention is that the Disciplinary Authority did not take into account, while reaching his conclusion, the explanation submitted by the applicant to the show cause notice. His third point is that the impugned order has been passed without any discussion of the evidence and nothing has been shown to establish any misconduct on the part of the applicant. Even if the applicant had taken something, it could have become a misconduct only if it had been shown that the same was by way of illegal gratification.

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5. We have carefully considered the aforesaid submissions made by the learned counsel but find no merit therein. The show cause notice itself indicated the report given by the Asstt. Commissioner of Police. In the reply to the show cause notice there was no mention by the applicant that he wanted a copy of the report of the Asstt. Commissioner of Police. On the contrary, he accepted that the occupant of the truck had spoken to him. His defence was that he had not taken anything from the occupant of the truck but had only put back his own spectacles in his pocket. We, therefore, do not find that the applicant was handicapped by the fact that the report of the Asstt. Commissioner of Police was not given to him separately.

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6. The second contention of the applicant that his explanation was not considered by the Disciplinary Authority we find, ~~that~~ is also not tenable. The order of the Disciplinary Authority mentions the defence given by the applicant but has not accepted the same and relied on the report of the Asstt. Commissioner of Police.

7. In regard to the third point raised by the learned counsel that the show cause notice did not disclose any misconduct on the part of the applicant, we are of the view that in the normal course of business the applicant was not expected to receive anything

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from the occupant of the truck. Therefore, if the Disciplinary Authority comes to a finding that the applicant had received something from the occupant of the truck, the implication is clear that he had done something which was not warranted by his official duties. We cannot, therefore, agree with the learned counsel that the same did not constitute misconduct of his part.

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8. We are also not required to re-assess and re-appreciate the evidence. The facts of the case clearly indicate that the incident had happened and it was, therefore, not a case of no evidence. In our view it is possible on the basis of the evidence before the Disciplinary Authority to come to the finding which he has arrived at.

8. In the result, finding no merit in the OA the same is dismissed. No costs.

~~R.K. Ahoja~~
(R.K. Ahoja)
Member (A)

cc.

~~V. Rajagopala Reddy~~
(V. Rajagopala Reddy)
Vice-Chairman (J)