

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA-1479/99

New Delhi this the 10th day of January, 2001.

Hon'ble Sh. S.R. Adige, Vice-Chairman(A)
Hon'ble Dr. A. Vedavalli, Member(J)

Sh. Sharda Ram,
S/o late Sh. Hari Singh,
R/o 1/7073, Gobiind Marg,
Shivaji Park, Shahdara,
Delhi-32.

..... Applicant

(through Sh. Shyam Babu, Advocate)

Versus

1. Govt. of NCT Delhi
through its Chief Secretary,
5, Sham Nath Marg,
Delhi.

2. Addl. Commissioner of Police,
(Northern Range)
Police Headquarter,
I.P. Estate, New Delhi.

3. Dy. Commissioner of Police,
(Central District)
P.S. Daryaganj,
New Delhi.

..... Respondents

(through Ms. Vaishalee, proxy for Mrs. Avnish Ahlawat,
Advocate)

ORDER (ORAL)

Hon'ble Sh. S.R. Adige, Vice-Chairman(A)

Applicant impugns respondents order dated
12.08.97 (Annexure-A) and letter dated 10.06.98
(Annexure-B) rejecting his appeal. He seeks
consequential/financial benefits and for consideration
in the next higher promotions in Delhi Police.

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2. Applicant was proceeded against departmentally on the charge of having misappropriated a sum of Rs. 13,100/- during the investigation of FIR No. 291 dated 11.06.85 under Section 407 IPC.

3. He was placed under suspension vide order dated 03.10.85 (Annexure-C). The Enquiry Officer in his findings dated 08.04.87 (Annexure-G) held the charge against the applicant as proved.

4. A copy of the Enquiry Officer's report was furnished to applicant for representation, if any.

5. On receipt of applicant's representation, the Disciplinary Authority after considering the materials placed on record, accepted the Enquiry Officer's findings, and awarded the applicant punishment of with-holding of two increments with cumulative effect. Applicant's suspension period w.e.f. 03.10.85 to 09.12.87 was directed to be treated as not spent on duty vide order dated 24.10.94 (Annexure-K).

6. Applicant submitted an appeal against the aforesaid order which was rejected vide order dated 16.05.95 (Annexure-L).

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7. Applicant's revision petition was not entertained by the respondents for the reason that it had been filed after the limitation period provided under the rules vide respondents letter dated 12.04.96 (Annexure-M).

8. Thereupon applicant filed OA-2642/96, which after hearing was rejected vide Tribunal's order dated 23.12.96.

9. After the aforesaid order dated 23.12.96 had been passed in OA-2642/96, respondents issued the impugned order dated 12.08.97 (Annexure-A) by way of a corrigendum stating that the punishment awarded to applicant may be read as under:-

Punishment of with-holding of increment for a period of two years with cumulative effect.....

10. Applicant filed an appeal against the aforesaid corrigendum dated 12.08.97 which was rejected by respondents vide order dated 19.06.98, giving rise to the present OA.

11. We have heard both sides.

12. Sh. Shyam Babu has contended that there are no rules by which respondents could have

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issued the aforesaid corrigendum dated 12.08.97 purporting to modify the earlier orders passed by the Disciplinary Authority and upheld right uptill the Tribunal's order dated 23.12.96. In this connection, he has emphasised that the aforesaid impugned order substantially modifies the earlier penalty order, and is, therefore, manifestly illegal

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13. On the other hand, respondents proxy counsel Ms. Vaishalee states that the corrigendum is only by way of correction of language, and in fact is to the applicant advantage, as otherwise the period of suspension was infinite, and applicant cannot, therefore, have any legitimate cause of action.

14. We have considered the matter carefully.

15. In our view, in the absence of any challenge to the Tribunal's order dated 23.12.96, rejecting applicant's challenge to the revisional authority's order, the Disciplinary Authority's order had attained finality, and in the absence of any specific rule permitting respondents to alter the wording of the penalty order at that stage, they could not legally have issued the aforesaid corrigendum order.

16. It is well settled that judicial decisions have to attain a finality, and once the Tribunal had rejected applicant's challenge to the

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revision order, the wording of the penalty order could not legally be altered, even if respondents considered it only to be a change of language.

17. In the result, the O.A. succeeds and is allowed to the extent that the impugned orders dated 12.08.97 and 19.06.98 are quashed and set aside. No costs.

A Vedavalli

(Dr. A. Vedavalli)
Member(J)

S.R. Adige

(S.R. Adige)
Vice-Chairman(A)

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