

Central Administrative Tribunal, Principal Bench

O.A. 1575/1999

New Delhi, this the 9th day of November, 2000

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

Raj Pal Yadav s/o Shri Yad Singh Yadav
R/o H.No. RZ-167, B Block, Roshan Vihar
Najafgarh (New Delhi)

....Applicant

(By Advocate: Shri Yogesh Sharma)

Versus

1. N.C.T. of Delhi through its Secretary
Old Secretariat, Delhi
2. The Commissioner of Police,
Police Head Quarters, ITO, New Delhi
3. The Sr. Addl. Commissioner of Police,
Intelligence Bureau, Police Head Quarters
ITO, New Delhi

....Respondents

(By Advocate: Shri Ajesh Luthra, proxy for Ms. Jyotsana
Kaushik)

ORDER (ORAL)

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

The applicant Constable Raj Pal Yadav was
proceeded departmentally on the following three
allegations:-

(i) Inspr. Rajinder Singh, No.D-I/771,
Const. Rajpal Singh No.736/L, HC
Ramesh Chander No.105/L and ASI Babu
Ram No.3222/D, I/C M.T. Store, Lodhi
Colony, consumed liquor in the canteen
near the M.T. workshop of Special
Branch around 1830 hours, on 3.2.97.
Thereafter, Inspr. Rajinder Singh,
No.D-I/771 and Const. Rajpal Singh,
No.736/L went to P.S. Defence Colony
from where Inspr. Rajinder Singh took
petrol for his Govt. Motor-cycle.

(ii) Thereafter, the Inspr. and Const.
went to Pawar Bus Service, Yusuf Sarai.
Inspr. Rajinder Singh directed the
Const. to wait for him outside the
office of Pawar Bus Service. Inspr.
Rajinder Singh who went inside demanded
liquor from Sh. Dharambir Pawar, owner
of Pawar Bus Service and again consumed
liquor. and

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(iii) Const. Rajpal Singh, No.736/L started the Motor-cycle to leave the place. On hearing the starting sound of the Motor-cycle, Inspr. Rajinder Singh came out of the office, he did not find the Motor-cycle. The Const. was also not there. The Inspr. did not inform his senior officers about the incident and also failed to get a case of theft registered in the Police Station till 5.2.97. Inspr. Rajinder Singh and Const. Rajpal Singh, No.726/L had consumed liquor in the office premises and drove the Govt. Motor-cycle under intoxication."

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2. An enquiry officer was appointed, enquiry was conducted and the enquiry officer framed the following charges:-

"I, Yamin Hazarika, Dy. Commissioner of Police, Riot Cell, Delhi (Enquiry Officer), charge you Inspr. Rajinder Singh, No.D-I/771, ASI Babu Ram, 3222/D, H.C. Ramesh Chander, No.105/Land Const. Raj Pal, No.736/L, of consuming liquor in the M.T. Workshop of Special Branch around 6.00 P.M. on 3.2.97:

I further charge you Inspr. Rajinder Singh and Const. Raj Pal Singh of driving the Govt. Motor Cycle No.DDW-7043 allotted to Inspr. Rajinder Singh, under the influence of liquor. You first went to P.S. Defence Colony from where you Inspr. Rajinder Singh took petrol for the above Govt. motor cycle and thereafter, you went to Pawar Bus Service in Yusuf Sarai, Delhi;

At Pawar Bus Service you Inspr. Rajinder Singh asked Shri Dharambir Pawar, the owner of Pawar Bus Service for liquor and you consumed liquor there also. You Inspr. Rajinder Singh took away the key of above said Govt. Motor Cycle from Const. Raj Pal Singh when he started the Motor Cycle to leave Pawar Bus Service, Yusuf Sarai, Delhi. You took the key and went again inside the above office to once again drink liquor; and

You, Inspr. Rajinder Singh came out from Pawar Bus Service at about 8.30 P.M. and did not find Constable Raj Pal Singh and Govt. Motor Cycle No.DDW-7043 outside the office. You neither informed the senior officers about the above incident nor got registered a theft case of Govt. Motor Cycle No.DDW-7043 till 5.2.97."

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3. Vide impugned order passed by the disciplinary authority, the applicant was awarded punishment of permanent forfeiture of two years service entailing proportionate reduction in pay by two stages from Rs.3350/- to Rs.3200/- p.m. for a period of two years in the time scale of pay. It was also ordered that he will not earn increments of pay during the period of reduction and on expiry of that period, the reduction will have the effect of postponing his future increments of pay. Order passed by the disciplinary authority was later confirmed by the appellate authority. While imposing the punishment, the disciplinary authority also observed "that fault of the applicant before us was more serious on account of following three lapses on his part":-

- "(a) Taking Govt. M/Cycle unauthorisedly from Pawar Bus Service
- (b) Leaving Govt. M/Cycle in the area of PS Vasant Kunj unauthorisedly
- (c) Not reporting its loss to senior officers."

4. Applicant has assailed the order dated 12.2.98 on the ground that the disciplinary authority, instead of giving his observations on the charges framed against him, framed three new charges (reproduced at 'a', 'b' and 'c' above) and came to the conclusion that all those three charges had been proved. Shri Yogesh Sharma stated that none of the above charges noted by the disciplinary authority are found to be a part of the charges on which the applicant was proceeded in the departmental enquiry. He submitted that the principles of natural justice had not been followed since the charges which were found to be

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proved against the applicant, were not part of the charges on which the disciplinary enquiry was conducted and so proper opportunity was allowed to applicant to defend his case and, therefore, the impugned orders passed by the disciplinary authority and appellate authority are liable to be quashed.

5. Shri Luthra, learned proxy counsel appearing on behalf of respondents submitted that since evidence has come on record and it is on the basis of that evidence that the charges have been framed, so the punishment order should be sustained or in the alternative, the case could be remanded back so that department could frame fresh charges and punish the applicant on the basis of evidence which has come on record.

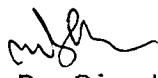
6. We feel that the procedure adopted by the disciplinary authority is totally in violation of the principles of natural justice as the departmental enquiry was conducted against the applicant on the basis of specific charges as framed by the enquiry officer but the disciplinary authority imposed the punishment on applicant permanently forfeiting two years service entailing reduction of pay by two stages for a period of two years, on the basis of three new charges framed by him which were not part of the charges on which the disciplinary enquiry was conducted. Hence, to our mind, proper opportunity was not given to the applicant to defend himself against the charges on the basis of which punishment order has been passed, which has caused serious prejudice to the

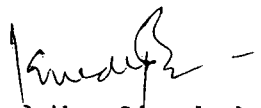
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applicant.

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7. We are, therefore, of the view that the impugned orders cannot be sustained and the same deserve to be quashed. Accordingly, we quash the impugned orders and direct that the pay of the applicant be restored. However, the department will be at liberty to conduct a fresh enquiry against the applicant, if they so desire. No order as to costs.


(M.P. Singh)
Member (A)


(Kuldip Singh)
Member (J)

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