

Central Administrative Tribunal, Principal Bench

O.A. No.1928 of 1999

New Delhi this the 9th day of July, 2002

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

1. Ex. Sub Inspector Jeevan Lal No.D-1910
S/o Shri Harswaroop Singh, aged 40 years,
Lastly posted in Delhi Police
R/o D-1016, Gali No.12, Ashok Nagar,
Delhi-94.
2. Ex. Constable Parma Nand No.769/E
S/o Shri Puran Singh, aged 49 years,
Lastly posted in Delhi Police
R/o 540, Darya Pur Kalan,
Delhi-39.

- Applicants

(By Advocate : Devesh Singh)

Versus

1. Union of India through
Through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Joint Commissioner of Police,
New Delhi Range,
Police Head Quarters, I.P. Estate,
New Delhi.
3. Dy. Commissioner of Police,
East District,
Shahdara, Delhi.

- Respondents

(By Advocate : Shri Vijay Pandita with Ms. Shabana)

ORDEER (ORAL)

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

Applicants, two in number, have assailed the orders passed by the disciplinary authority vide which they have stated that their services have been terminated. Applicants had also preferred an appeal, but the appeal was also rejected by the appellate authority. Thereafter applicants had filed OA No.1928/1999 challenging the impugned orders of the disciplinary

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authority as well as the orders passed by the appellate authority on the ground that the disciplinary authority has punished the applicants without any basis as there was no evidence available to prove the findings levelled against the applicants at the level of the disciplinary inquiry. The statement of allegations shows as under :-

"It has been alleged in the complaint of Sh. Nawal Kishore Joshi, r/o D-213/9, Laxmi Nagar that he was cheated to the amount of Rs.2,48,000/- by Shri Jarif Ahamed r/o H-194, Ramesh Park, Laxmi Nagar, Jagat Singh s/o Nepal Singh r/o C-194, Ashok Nagar, Anand Ballabh s/o Bachhi Ram, r/o C-196, New Ashok Nagar and Ram Singh @ Salim S/o Braham Singh r/o R-45, Krishna Nagar in connection with the purchase of a plot measuring 400 yards in New Ashok Nagar. On his complaint case FIR No.121 dt.22.4.89 U/S 419/420/468/471/120-B /34 IPC P.S. Shakar was registered and all the four persons were arrested. A sum of Rs.1,32,000/- was recovered. Shri N.K. Joshi also complained that the above said persons had given Rs.38,000/- to SI Jeevan Lal No.D-1910 and Const. Parma Nand No.881/E etc. as bribe to favour them in their illegal Act. During preliminary investigation by SHO/Shakar Pur, it is also revealed that SI Jeevan Lal, No.D-1910 & Const. Parma Nand, No.881/E etc. received Rs.38,000/- for favouring the accused of aforesaid case. From the inquiries, it is also revealed that the above mentioned police officials have helped the accused persons in getting a forged deal finalised for their selfish and ulterior motive.

The above act on their part amounts to grave misconduct and negligence in the discharge of their official duties, which renders them liable to be dealt with departmentally U/S 21 of Delhi Police Act, 1978."

2. The perusal of statement of allegations go to show that these applicants had accepted a sum of Rs.38,000/- to favour certain accused persons who had cheated the complainant in land dealing.



3. By filing the aforesaid OA, the applicants challenged the aforesaid orders but that OA was dismissed vide order dated 14.12.2000. Thereafter the applicants had filed a Civil Writ Petition No.1870/2001 before the Hon'ble High Court of Delhi and impugned the order of the Tribunal. The Hon'ble High Court vide its order dated 19.3.2002 remitted the case back to this Tribunal. The Hon'ble High Court in their order observed as under:-

"Keeping in view the fact that the main contention of the petitioner was that it was a case of no evidence as there was nothing on record to convict him and that the order of the disciplinary authority suffered from infirmity and unreasonableness, we are of the opinion that the question raised before the Tribunal not considered in detail. The learned Tribunal ought to have discussed the materials which were available against the petitioner for the purpose of arriving at the afore-mentioned finding. Keeping in view the fact that that the learned Tribunal did not assign any reason nor discussed the evidence or referred to the other materials on records, we are of the opinion that the impugned judgement cannot be sustained which is set aside accordingly. Writ Petition is allowed. Matter is remitted to the learned Tribunal for consideration of the matter afresh."

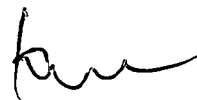
4. Accordingly, we have heard Shri Devesh Singh, learned counsel for applicants and Shri Vijay Pandita, learned counsel for respondents.

5. The short question involved in this case is, (i) Whether there was any evidence on record to prove that the applicants were liable to be held guilty in terms of doctrine of preponderance of probability; and (ii) whether the applicants should be held guilty for the



charges as levelled against them in the statement of allegations.

6. We have examined the findings recorded by the Inquiry Officer as well as the orders passed by the disciplinary authority and the appellate authority. The contradiction pointed out by the learned counsel for the applicants go to show that some of the findings have revealed that during the inquiry a sum of Rs.38,000/- was recovered from these applicants, but the Inquiry Officer of the criminal case, namely, Shri S.B. Yadav, had categorically stated that the amount of Rs.1,32,000/- was recovered from the accused persons but no money was recovered from the applicants S.I. Jeewan Lal (Applicant No.1) and Const. Parmanand (Applicant No.2). The perusal of the findings recorded by the enquiry officer also go to show that there is nothing on record to prove the charges, as levelled against the applicants. None of the witness, who had appeared before the enquiry officer had seen bribe money, passing to these applicants. Even the order of the disciplinary authority confirms the fact that there is nothing on record to show that the amount, as alleged, was passed in the presence of any of the eye witnesses. The disciplinary authority has also referred about circumstantial evidence and relying upon the earlier statement of the witnesses held them guilty. But the witnesses, who had appeared before the E.O had not made any statement similar to that which they made earlier. Since the




witnesses had appeared in person before the Inquiry Officer, the earlier statement could not be used to prove the charges and hold the applicant guilty. Reliance cannot be placed on the earlier statement to hold the applicants guilty of the charges levelled against them, particularly, when there is no evidence to bring home that the charges proved against the applicants nor any statement recorded before the E.O.

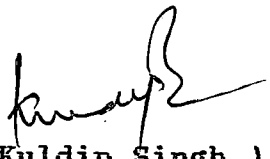
7. Thus, by no stretch of imagination, it can be said that the witnesses had proved that the applicants had received bribe through the accused persons to save them for cheating in the said land deal. On a perusal of the record, we find that the order passed by the disciplinary authority as well as by the appellate authority is based on no evidence. They have simultaneously referred to certain circumstantial evidence which is also not sufficient even for attracting the doctrine of preponderance of probability to hold the applicants guilty of the charges levelled against them.

8. Having regard to the above discussion, we are of the considered view that the orders passed by the disciplinary authority as well as appellate authority being based on no evidence, are liable to be quashed. We hereby quash the orders of disciplinary authority as well as that of the appellate authority. We direct the respondents to reinstate the applicants in service within a period of six weeks from the date of receipt of a copy of this order. However, at this stage, we may also state that the applicants will not be entitled for the

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backwages for the intervening period till the date of reinstatement on the ground of 'no work no pay'. Shri Devesh Singh, learned counsel appearing for the applicants has made a submission that the applicants should be reinstated with full backwages. Keeping in view the fact that the applicants had not worked at all during the intervening period till the date of reinstatement, so they are not entitled to the backwages. No costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

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