

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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O.A No. OA 1995/1999
T.A No.

Date of Decision 16-4-2001

Suresh Chander

..Petitioner

S.M.Rattanpaul

..Advocate for the Petitioner(s)

Versus

Lt.Givernor of Delhi
through Chief Secretary
Govt.of NCT of Delhi & Ors.

..Respondent

Mrs.Neelam Singh, learned
counsel through proxy counsel
Shri Ram Kavar.

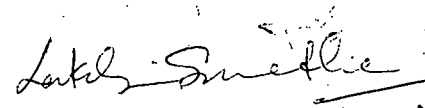
..Advocate for the Respondents

Coram: -

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman(J)

Hon'ble Shri Govindan S.Tampi, Member (A)

1. To be referred to the Reporter or not? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal ?. No


(Smt.Lakshmi Swaminathan)
Vice Chairman (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1995/1999

New Delhi this the 16th day of April, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Constable (Driver) Suresh Chander
No. 480/W, Delhi Police, R.K. Puram,
New Delhi.

.. Applicant

(By Advocate Shri S.M. Rattanpaul)

VERSUS

1. Lt. Governor of Delhi,
through Chief Secretary
Govt. of NCT of Delhi, 5,
Sham Nath Marg, Delhi-54
2. Commissioner of Police,
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi.
3. The Joint Commissioner of Police/
S.R./Delhi Police, New Delhi
4. The Deputy Commissioner of Police,
Delhi Police, West District, N/Delhi.

.. Respondents

(By Advocate Mrs. Neelam Singh, learned
counsel through proxy counsel Sh. Ram
Kawar)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)):

The applicant has impugned the validity of the order passed by the respondents dated 3.6.1999 by which he has been given the penalty of permanent forfeiture of five years of service (Annexure A V). By this order, the appellate authority had modified the earlier punishment of dismissal from service awarded to the applicant by the disciplinary authority which he states was too harsh.

2. The brief relevant facts of the case are

that the applicant, on 17.9.1996 while performing the duty as Staff Car Driver to Addl.DCP/II, West District, was informed ~~him~~ not to leave his duty till his reliever resumes his duty. It was also informed to him through Ct.Satyawan that he should wait for some time but the applicant did not care for ^{the P's} directions of Addl.DCP/II-West and on his own left the duty without waiting ^{for P's} his reliever. A departmental enquiry was ordered against the applicant for the above lapses. The summary of allegations and charge were issued, the relevant portion of which reads as below:-

It is alleged that Const.(Driver) Suresh Chander No.480 /W (PIS No.29850071) posted as Staff Car Driver to Addl.Dy.Commissioner of Police /West-II was performing duty on 17.9.1996. The Addl.DCP/W-II told him not to leave duty till his reliever resumed the duty. He was also informed through Const.Satyawan No.908/W that he should wait for some time but Const.(Driver) Suresh Chander No.480/W did not care the directions of Addl.DCP/W-II and left the duty without waiting ^{for} his reliever."

3. The Inquiry Officer in his report dated 26.5.1997 has stated that since the applicant has straightway admitted the allegations and charge framed against him, there is no ~~any~~ other evidence which requires any discussion in detail. He has, therefore, come to the conclusion that the charge framed against the applicant stands fully proved.

4. Learned counsel for the applicant has taken a number of grounds to challenge the aforesaid orders passed against the applicant. He has submitted that this order is contrary to the provisions of Rule 16(i) of the Delhi Police (Punishment and Appeal) Rules, 1980 (hereinafter referred to as 'the Rules'). According to

Shri S.N.Rattanpaul, learned counsel for the applicant, the respondents ought to have given the applicant seven days to admit the allegations or deny the same and also whether he wants to produce defence evidence to refute the allegations, which has not been done. This submission has been controverted by the learned proxy counsel for the respondents who has submitted that on receipt of the summary of allegations as well as the copy of the charge, the applicant has admitted the mistake/mis-conduct on his part in writing to the Inquiry Officer on the same date itself. Further, from a plain reading of sub-rule (i) of the Rules, we are unable to agree with the contention of the learned counsel for the applicant that even if the applicant had admitted the allegations in the charge straightway, which has⁸ also been mentioned and referred to by the Inquiry Officer in his report, nevertheless, the respondents have still got to give him 7 days. The Rule itself provides that the charged officer shall be required to submit to the Inquiry Officer a written report within 7 days indicating whether he admits the allegations and if not, whether he wants to produce defence evidence to refute the allegations against him. Shri Ram Kavar, learned proxy counsel has submitted the relevant DE proceedings file. He has referred to the statement of the applicant in applicant's own handwriting in Hindi, wherein he had admitted his mistake committed on 17.9.1996. We also note from Annexure A-6 document filed by the applicant himself that he has, inter- alia, stated that he left the Govt. vehicle at the residence of Addl.DCP/W-II at 10.00AM on 17.9.1996. Further he has stated that, "I

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left the place of duty with the view that Const.(Driver) Ramesh who was due back on 17.9.1996 will resume his duty at the due time i.e. 12.00 noon'. From the DE proceedings file we also note that on 31.3.1997 the applicant had admitted to have received the copy of the charge and pleaded guilty by stating in the answer "Yes". He has further submitted in reply to the question whether he wants to produce ~~the~~^{his} defence evidence, by answering the relevant question as "No."

5. From a persual of the relevant documents, we are, therefore, satisfied that the applicant has accepted his guilt with regard to the allegations levelled against him in the charge referred to above. Sub-rule (i) of Rule 16 of the Rules provides:-

" If the accused police officer after receiving the summary of allegations, admits the misconduct alleged against him, the enquiry officer may proceed forthwith to frame charge, record the accused officer's plea and any statement he may wish to make and then pass a final order ...alternatively the findings in duplicate shall be forwarded to the officer empowered to decide the case".

In the present case, the Inquiry Officer has forwarded his report to the competent authority on 26.5.1997. The Disciplinary authority had passed the punishment order of dismissal from service on 8.5.1998, which has been modified to one of the forfeiture of five years service by the Appellate authority by order dated 3.6.1999. In the circumstances of the case, the contention of the learned counsel for the applicant that there has been violation of the provisions of sub-rule (i) ^{of} Rule 16 of

the Rules is rejected.

6. Another ground taken by Shri Rattanpaul, learned counsel is that the charge is vague. This has also been denied by the respondents. On perusal of the charge we are unable to agree with the contention of the learned counsel for the applicant that the charge is vague. It is seen from the applicant's own letter placed at Ann.A.6 that he knew that constable (driver) Ramesh shall resume his duty at the due time i.e. 12.00 noon on 17.9.1996 and he has admitted that he had left the vehicle at the residence of Addl.DCP/W/II at 10.00 AM. Learned counsel for the applicant has fervently pleaded that the applicant had been continuously performing his duty for 48 hours ^{Rs.} and there was ^{nothing} ~~no~~ wrong in his leaving the place of his duty after waiting ^{for Rs.} "sometime," as requested by Const. Satyawar. This plea cannot also be accepted as he was required to wait till the reliever ~~had~~ ^{Rs.} resumed his duty. It is apparent from this letter that the applicant was aware that Shri Ramesh was due back only at 12.00 noon on 17.9.1996 when he has admittedly left the place of duty at 10.00 AM. Therefore, this ground taken by the applicant also fails and is rejected.

7. Another ground taken by the learned counsel for the applicant is that the enquiry officer was working under the direct control of complainant i.e. Addl.DCP W/II and, therefore, he was prejudiced. Taking into account the facts and circumstances of the case, including the fact that the applicant has

himself admitted to the mistake committed by him in leaving the place of his duty contrary to the instructions on 17.9.1996, we are not impressed by this argument. In any case, no prejudice has been done or established by the applicant to warrant any interference in the matter on this ground. Therefore, this plea also fails and is rejected.

8. Learned counsel for the applicant has also submitted that the applicant's defence was not taken into account, there are contradictions in the charge and documents were not given to him as mentioned by the Inquiry Officer, namely, the list of documents. None of these grounds justifies setting aside the appellate authority's order modifying the punishment earlier given to the applicant by the disciplinary authority. From the documents on records as well as on perusal of the DE file, it is clear that the applicant has admitted before the Inquiry Officer his guilt regarding the incidence which took place on 17.9.1996. In this view of the matter, the above contentions of the applicant's counsel that the charge is vague or that his defence has not been taken into account are rejected.

9. The respondents have clearly stated in Paragraph 5(n) of their reply that no documents have been relied upon and, therefore, they had not supplied the copies of the documents along with summary of allegations to the applicant. The mere fact that the Inquiry Officer had stated to the contrary erroneously, which does not tally with the facts of

the case and particularly having regard to the applicant's own admission of guilt, it is not sufficient to vitiate the DE proceedings held against him. We are, therefore, unable to agree with the contention of the learned counsel for the applicant that there has been either any violation of the relevant rules or the principles of natural justice in this case warranting any interference in the matter.

10. It is also relevant to note from the reply filed by the respondents that a number of opportunities have been given to the applicant to appear before the then DCP-II West as requested by him but he did not turn up on relevant dates. As more than 10 opportunities have been granted to the applicant to appear in the orderly room, the contention of the learned counsel for the applicant that he could not do so on any of the dates because he was sick, cannot also be accepted. Similarly his contention that on the last 3 dates he has visited the DCP Office but because of his busy schedule he had not given him personal hearing and on 11.7.1997 he was ill and as such could not go for the enquiry cannot be accepted. We are satisfied that there has been no violation of the principles of natural justice on this account as the applicant has been given ample opportunities to appear and be heard.

11. The appellate authority has passed a reasoned and speaking order in which he has taken into account the earlier good record of the applicant and accordingly reduced the punishment from one of dismissal to that of forfeiture of 5 years service.

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In the circumstances we do not think that the punishment order is excessive or perverse to justify any interference in the matter on this ground also as submitted by the applicant. We have also considered the other contentions raised by the applicant in this OA but do not find any merit in the same.

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12. In the result, for the reasons given above, we find no merit in this application. The same is dismissed. No order as to costs.

(Govindan S. Tampi)
Member(A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman(J)