

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO. 2209/1999

New Delhi, this 30th day of the November 2000

Hon'ble Mr. Justice V Rajagopala Reddy, VC(J)
Hon'ble Mr. Govindan S Tampi, Member (A)

Gurmeet Singh, D-86 DDA Flats
Jhilmil Delhi

.....Applicant
(By Shri D N Goverdhan, Advocate)

Vs

1. NCT Delhi
Through Chief Secretary,
Samnath Marg, Delhi
2. Commissioner of Police,
Police HQrs, New Delhi
3. Addl. Commissioner of Police,
Delhi Armed Police,
PHQ, New Delhi.
4. Deputy Commissioner of Police,
3rd Bn. Vikaspuri Lines,
Vikaspuri, New Delhi
5. Deputy Commissioner of Police (Vig.)
PHQ, Delhi.

.....Respondents
(By Ms Neelam Singh, Advocate)

ORDER (ORAL)

Justice V. Rajagopala Reddy:

The applicant Gurmeet Singh, who is now superannuated was alleged to have committed misconduct and on the said misconduct a DE was initiated against him. The following was the charge framed against him:

"You, Inspector Gurmeet Singh, No. D-I/395 are hereby charged that while you were posted in Vigilance Branch, PHQ, complaint of one Shri A K Bhatia s/o late Shri K L Bhatia r/o 234, Bhola Nath Nagar, Shahdara, Delhi against the staff of PP Anaj Mandi, PS Vivek Vihar was entrusted to you for conducting enquiry vide PHQ's No. F.24(500) vig.92/30482/Vig. HA-IV dated 12.10.92. During the course of enquiry, you neither visited the spot nor

recorded the statements of the neighbours. You did not properly examine Smt. Savitri Devi and her family members and also did not try to verify the witnesses mentioned by Shri A K Bhatia, to be the real eye witnesses. It reveals that you had not conducted the enquiry properly and the enquiry conducted was found to be one-sided . In the complaint, the three witnesses cited by Shri Bhatia were his own men and had already been influenced by Shri Bhatia. The above act on the part of you, Inspector Gurmeet Singh, No. D-I/395 amounts to gross misconduct, carelessness and remissness which renders you liable to be punished as envisaged under Delhi Police (Punishment & Appeal) Rules, 1980."

2. The Enquiry Officer submitted his findings holding that the charge was proved and the Disciplinary authority accepting his findings passed the impugned order dated 27.7.95 reducing the applicant in the rank of Sub Inspector permanently. The appeal (wrongly shown as Revision) was however rejected by order dated 23.12.98. This order is under challenge in this OA. The learned counsel for the applicant Shri D N Goverdhan raises the following contention:

i) The material documents were not supplied to thus the applicant was not afforded reasonable opportunity to disprove the case of the prosecution.

ii) The order of reducing the applicant to the rank of Sub Inspector permanently is contrary to rule 5 of Delhi Police (Punishment and Appeal) Rules 1980 and

iii) the enquiry was wholly misdirected . No evidence is brought on record to establish the main charge of not holding the enquiry properly in the complaint of A K Bhatia.

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3. Learned counsel for the Respondent Smt. Neelam Singh submits that the applicant as an investigating officer had submitted a false report in respect of the complaint given by Mr. Bhatia, it led to a false finding that the Inspector Rajendar Prasad Tyagi, ASI Mahendar Singh were guilty of the allegations. Hence the applicant was rightly charged and on the basis of the evidence on record was found guilty. It is further contended that Rule 5 of Delhi Police (Punishment and Appeal) Rules 1980 has not violated.

4. We have given careful consideration to the arguments advanced by the learned counsel. We will now consider the contention as to non-supply of documents.

- 1) Enquiry report submitted by me.
- 2) Remarks of the then DCP/Vigilance
- 3) Remarks of Addl.C.P.(A)
- 4) Remarks of C.P.(A)
- 5) Enquiry Report of Sh. R.K.Sharma, ACP
- 6) Remarks of DCP/Vigilance
- 7) Remarks of Addl.C.P.Concerned.
- 8) Remarks of C.P.Delhi, if any

- 9) enquiry report of S K Jain, ACP
- 10) Remarks of DCP/Vigilance
- 11) Remarks of Addl. CP concerned.
- 12) Remarks of CP Delhi if any.
- 13) Copies of statements of Smt. Savitri Devi recorded by ASI Mohinder Singh on 7.10.92.
- 14) Copy of Kalandra u/s 107/151 CRPC against Shri A K Bhatia, his brother and two servants (labourers)
- 15) Enquiry report of DCP/East in respect of allegations levelled by the complainant Sh A K Bhatia.
- 16) Copies of statements of ASI Mohinder Singh, SI Rajinder Singh Tyagi recorded by me during Vigilance enquiry.
- 17) All the statements recorded by Shri R K Sharma ACP during vigilance enquiry.
- 18) All the statements recorded by Sh. S K Jain, ACP during vigilance enquiry..

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5. In the reply given which is annexed 'E' OA dated 24.8.94 it was stated that the relevant documents have already been given to him on 19.7.94, hence the supply of other documents, at that stage was not considered necessary. It is now conceded by the learned counsel that the documents were not supplied even during the enquiry. It is contended that the above documents to disprove the allegations levelled.

6. The only documents that were supplied with the summary of allegations were the enquiry report of Sita Ram Vohra and the application made by the SI Rajendra Prasad. It should be remembered that the allegations made against him were that he conducted a one sided enquiry, in the complaint given by Mr. A K Bhatia complaining against that SI Rajendar Prasad that he had committed extortion as well as torture and detained the said Bhatia in the Police Station. His Enquiry report in that case, the report of SK Jain ACP, disciplinary authority, the statements recorded during the investigations, etc, are the relvant and material documents to prove or disprove the version of the prosecution. The applicant therefore asked for supply of the same. They were not rejected not the ground of relevancy. But that they were not relevant at that stage. In that case they should have been supplied at a later stage. But they were not supplied till the enquiry was completed. It is also not the case of the respondents that they were not available. We are therefore inclined to hold that the non supply of

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material documents vitiated the enquiry as no reasonable opportunity was afforded to defend his case.

7. We are also satisfied that the enquiry in this case is wholly misdirected and illegal. No material was brought on record to prove the main charge but is sought to be ground by wholly irrelevant material. From an analysis of the charge, it shows that the charge is in 2 parts i) Main part of the charge and ii) the subsidiary part i.e. the allegations by which the main part is sought to be proved. First part, the gravamen of the charge is that he has not properly conducted investigations on the complaint of one A K Bhatia ~~what was the complaint of A K Bhatia~~ < that Bhatia, when he went to give a complaint to Police Station against one Savitri Devi, Bhatia was tortured, detained in the hospital and was also subjected to extortion of money by the SI Rajendar Prasad Tyagi, and 2 Constables. The applicant was asked to investigate into the truth of that complaint. He investigated and gave his report that the SI and Constables were guilty of extortion, torture etc. Report was accepted, and enquiry held and they were duly punished. It was now alleged that the applicant had not conducted that investigation, properly. Now the 2nd part of charge is i) that the applicant had not visited the spot where the alleged dispute arose between Bhatia and Savithri Devi.

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ii) not recorded the statement of neighbours of that place.

iii) not examined Savitri Devi, her family member or her witnesses and iv) examined Bhatias witnesses only. These allegations of 2nd part, even if proved, would not prove the first part of charge, as they have no relation with the specific complaint of Bhatia, i.e. his torture by SI and others. Not a single instance is mentioned as to the investigation into that complaint, all these allegations pertain to the alleged scuffle of Bhatia qua Savithri Devi. We are therefore of the view that the gravamen of the charge was sought to be proved, in the present enquiry and the applicant punished, for which he was rightly not responsible.

8. The impugned order is also vitiated for the reason that it is violative of rule 5 of Delhi Police (Punishment and Appeal) Rules, as rule 5 does not contemplate reduction in rank permanently. One of the penalties shown in Rule 5 is reduction in rank specified period.

9. For the above reasons the orders are quashed. OA is allowed with costs of Rs.5,000/-. Department's records are handed over to the counsel for the Respondent.

Govindaraj Tampi
Member (A).

(V. Rajagopala Reddy)
VC(J)

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