

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 2260/1999

New Delhi this the 2nd day of January, 2001

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

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

Panna Lal
presently working as Sub-Inspector,
S/O Sh. Chunni Lal
R/O A-264, Pandav Nagar,
Patel Nagar, New Delhi.

.. Applicant

(By Advocate Shri S.K. Gupta)

Versus

1. Govt. of NCT of Delhi
through its Chief Secretary,
5, Sham Nath Marg, Delhi.
2. Commissioner of Police,
Police Headquarters, MSO Building,
I.P. Estate, New Delhi.
3. Addl. Commissioner of Police,
(Armed Police),
Police Headquarters, MSO Bldg.,
I.P. Estate, New Delhi.
4. Deputy Commissioner of Police,
IIIrd Btn. DAP, Vikaspuri, Delhi
5. Banwari Lal
Asstt. Commissioner of Police
Enquiry Officer,
C/O Deputy Commissioner of Police,
IIIrd Bn. DAP, Vikas Puri, Delhi.

.. Respondents

(By Advocate Mrs. Meera Chhibber)

O R D E R (ORAL)

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

The challenge in this application is on the penalty imposed in disciplinary proceedings.

2. The brief facts of the case are that the applicant was working as SI in Delhi Police when he was charge sheeted. Summary of allegation was issued to him on 26.7.1994 by the Enquiry Officer wherein it was alleged that the applicant was required to produce the case file of FIR No. 281/91 on 26.8.1993 before

the Delhi High Court which he failed to do, resulting in an accused charged under N.D.P.S. Act getting bail. As the applicant denied the charges, departmental proceedings were initiated against him wherein as many as 8 witnesses from the prosecution were examined and they also cross examined by him. The Enquiry Officer submitted his findings vide his letter dated 24.4.1995 holding that the charges levelled against the applicant stood proved. The applicant was served copy of the same and on receipt of the same, he filed an representation on 3.7.1995. The disciplinary authority (Deputy Commissioner of Police) after going through the representation against the findings of the Enquiry Officer's report and all the relevant records available in departmental enquiry vide his order dated 16.1.1998 agreed with the report of the Enquiry Officer and imposed on the applicant the penalty of forfeiture of two years' approved service permanently for a period of three years entailing proportionate reduction in his pay from Rs.7075/-PM to Rs.6725/-PM in the time scale of Rs.5500-9000 with immediate effect. The appeal filed by the applicant was disposed of by the Additional Commissioner of Police who confirmed the penalty vide his order dated 27.10.1998. These two orders are under challenge before us.

3. Heard the counsel for both the applicant and the respondents. Shri S.K.Gupta, learned counsel appearing for the applicant points out that no charge has been substantiated during the DE proceedings and order has been passed without examining the evidence on record and on incorrect appreciation of facts and circumstances of the case. According to him, though a message was

received on 25.8.1993 in the Police Station Kamla Market that 9
the case file FIR No.281/91 relating the criminal case against
one Mohd.Ahsan charged under Section 21 NDPS Act to be produced
in the Chamber of Delhi High Court on the next day i.e. 26.8.1993,
and that the same was marked to him, though he was not the investi-
gating Officer. He immediately asked his Constable Raj Kumar to
trace the file, though it was in late evening hours, from Tiz Hazari
Office. The efforts did not succeed and therefore, he appeared
in the Court on the next day and explained the matter but the Court
passed orders letting the accused on bail. He was not at all
guilty and he has performed his duty properly. Still the E.O.has
held the charge as proved against him in a malicious manner and
the same has been incorrectly accepted by the Disciplinary Authority
improperly. Shri Gupta points out that much has been made to show
that the relevant file was in his possession on an earlier
occasion. According to him after the receipt of the Enquiry
Officer's report he had specifically pointed out that the concerned
file though on earlier date was in his possession in July, 1993
after production in the Court he had returned it to Room No.176,
Tis Hazari. This was not discussed by the disciplinary authority
in its order. Therefore, the disciplinary authority's findings are
perverse and he has suffered irreparable loss in the process. He
has, therefore, prayed that the Enquiry Officer's report/findings
dated 24.5.1995, disciplinary authority order dated 16.1.1998 and
the appellate authority order dated 27.10.1998 all be quashed and
set aside and his position be vindicated.

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4. The respondents have filed their reply and contested the above claims of the applicant. Mrs Meera Chhibber, learned counsel appearing for the respondents states there was only one issue which has been raised in the charge sheet i.e. the failure of the applicant to produce the relevant case file 281/91 in the Delhi High Court on 26.8.1993 in connection with bail application submitted by accused Mohd.Ahsan, as desired by Smt. Seema Gulati, APP in her message of 25.8.1993, which was by DD entry, duly marked to the applicant. This is not a matter in dispute. It was, therefore, his duty to have ensured that the said file was located and produced in the Delhi High Court well in time. More so as the applicant was very much aware of the file as he had himself produced the same on 26.7.1993 in the High Court and legitimately was aware of its whereabouts. Still he had not taken the necessary action which resulted in the file not being produced in the Court and the accused getting the bail. He was, therefore, correctly dealt with. With regard to the further pleas of the applicant, the counsel states that it was not for the Tribunal to appreciate the evidence again but they were only called upon to see whether proceedings have been done correctly gone through or not.

5. We have carefully considered the submissions of both the learned counsel and also perused the records placed before us. It is evident from the charge sheet that the departmental proceedings have been initiated against the applicant for not having produced the case file 281/91 before the Delhi High Court

on 26-8-1993, for which a specific message ~~has~~ been communicated by the APP Smt. Seema Gulati on the previous evening in the Station where the applicant was working. The relevant DD entry also clearly shows that this duty was assigned to the applicant. Still he did not perform the task as he did not locate the file and did not correctly direct his junior, to the place where he had deposited the file, during the previous month after producing it in the Court. This has led to an accused, arrested under NDPS Act, 1985, being let out on bail. These facts having been properly established in the proceedings, which have been gone through correctly, findings arrived at by the Enquiry Officer ^{as well as the} acceptance of the same by the disciplinary authority cannot be assailed. Imposition of penalty by the disciplinary authority's order dated 16.1.1998 and its confirmation by the appellate authority's order are only logical corrolory. In the above circumstances, we also do not feel that the penalty of forfeiture of two years approved service, was harsh or ^{unwarrantably} ~~unreasonably~~ high.

6. In the above view of the matter we are not convinced that the applicant has ~~not~~ made out any case for our interference with the penalty ^{imposed} ~~action~~ adopted by the respondents. The application, therefore, fails and is accordingly dismissed. No costs.

(Govindan S. Tampi)
Member (A)

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

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