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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2428/1999

New Delhi, this 8th day of March, 2001

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri M.P. Singh, Member(A)

1. ASI Govind Ballabh
B481, PTS Colony, Malvia Nagar
New Delhi

2. HC Chander Singh
PS tuglak Road, New Delhi

3. Constable Talvinder Singh
1114/8, Sector 8
R.K.Puram, New Delhi

.. Applicants

(Shri Sachin Chauhan, Advocate)

versus

Union of India, through

1. Secretary
M/Home Affairs, New Delh

2. Addl. Commissioner of Police
Police Hqrs., New Delhi

3. Dy. Commissioner of Police
Police Hqrs., New Delhi

.. Respondents

(By Mrs. Meera Chhibber, Advocate)

ORDER(oral)

By Shri M.P. Singh

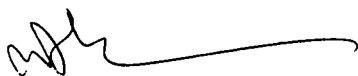
Applicants, three in number, seek to challenge the order dated 16.4.99 imposing upon them major punishment of forfeiture of two years service with cumulative effect and treating the period of suspension as not spent on duty, mainly on the ground that their's is a case of no evidence.

2. Heard the learned counsel for the parties and perused the records.



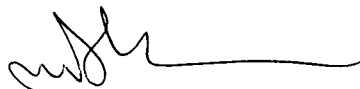
3. Briefly stated, the case of the applicants is that while they were on duty at PCR Van E-25 from 8AM to 8 PM on 2.7.98, the Addl. CP/Traffic (Smt. Kanwaljit Deol) and her staff noticed that the said PCR van E-25 was parked in the service lane of East Kidwai Nagar behind a bus stop opposite AIIMS on the Ring Road. A lady soliciting in the area was leaning into the PCR vehicle on the driver's side and conversing with the staff. In addition, five ladies who were also similarly soliciting were sitting at bus stop in full view of PCR van. When the Addl. CP intervened, the entire group ran on to the Ring Road and disappeared into the traffic. The said PCR staff stated that they had come there to make these ladies run away and stop soliciting but no efforts were seen by Ad. CP on their part. Addl. CP felt that the presence of the PCR van was providing protection to the activities of these ladies. For this lapse, the applicants were placed under suspension by order dated 15.7.98 but later on reinstated vide order dated 8.2.99.

4. A departmental enquiry was conducted by the ACP/South-West Zone/PCR who submitted his findings to the competent authority concluding that the charge against the applicants stood proved. A copy of the findings was served upon the applicants vide communication dated 7.12.98. Applicants submitted their representation on 14.12.98. They were also called and heard in detail in Orderly Room on 5.3.99. After going through the DE file as also considering the averments made in their representation and after hearing them in



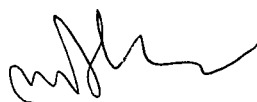
the OR, the disciplinary authority passed the impugned order dated 14.6.99 imposing upon the applicants the aforesaid punishment. Applicants' appeal against the punishment was rejected by a common order dated 1.10.99. Aggrieved by this, the applicants are before us seeking to quash the orders dated 16.4.99 and 1.10.99 and further challenging the action of the respondents in not including the names of applicants in the promotion list E-1 w.e.f. 2.12.98 and also order dated 20.9.99 by which the name of applicant No.3 has been placed in the secret list of officers having doubtful integrity.

5. Respondents have opposed the OA in their counter reply. It is their contention that applicants' main defence lies on the statement of their DW Shri Praveen Bajaj who claimed to have been present at the spot because of a defect in his car. He said that when his car got defected, one beggar lady started harassing him by demanding money, upon which he stopped the said police Gypsy which was coming from the service lane. He claimed that the PCR van staff then started questioning the lady. Meanwhile a white ambassador car came to the spot and by that time he got the defect rectified in the car and went away. Had he complained to the PCR staff about the lady, the PCR staff would have questioned the lady in front of him instead of allowing him to go away. Moreover, as per the defence story, the said man was still present near his car when Addl. CP/Traffic reached the scene and if there was slightest truth in this, the staff would have immediately clarified the position before Addl. CP/Traffic by producing the said man before her. The Addl. CP/Traffic had clearly



stated in her correspondence that "a lady who was obviously soliciting in the area was leaning into the PCR vehicle and conversing with the staff". Definitely a beggar type lady would not have given an impression of a lady soliciting a senior officer. Respondents felt that the story of defence was not to be believed. The charge was also proved from the fact that other similar looking ladies sitting nearby on the bus staff ran away only seeing Addl. CP's car. Had the defence story been correct and had the PCR van staff being actually questioning the said lady very near the bus stop, the other ladies on the bus staff would have definitely run away then itself.

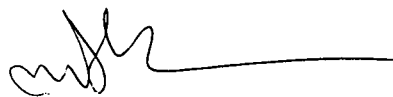
6. In so far as applicants' main contention that it is a case of no evidence that the Addl. CP/Traffic was not examined as PW, learned counsel for the respondents contends that there were 3 other PWs who had verified the incident ^{report from} and the correspondence written by Addl. CP/Traffic. The DE is quasi-judicial proceeding and the quantum of proof required is not the same as required in a pure judicial proceeding. There was sufficient evidence on the DE file to prove the guilt of the applicants and, therefore, the disciplinary authority agreed with the findings of the EO that the charge against the applicants stood proved. The disciplinary authority felt that the charge was of serious nature which indicated that the PCR van was providing protection to illegal activities and such an act of police personnel when comes to notice should not go unpunished.



7. In so far as applicants' contention that before ordering DE, no prior approval of the Addl. Commissioner of Police was taken under Rule 15(2) of the Delhi Police (Punishment & Appeal) Rules, 1980, the learned counsel for the respondents submits that since the DE was instituted against the applicants on the report of Addl. CP/Traffic, who himself is a senior officer, there was no need to seek prior approval of another Addl. CP, and, therefore, the aforesaid Rule has no application in the instant case. We are convinced.

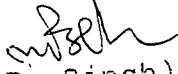
8. On a careful perusal of the pleadings available before us, we find that the enquiry was conducted as per procedure laid down; applicants were given reasonable opportunity to make their defence; they were heard in the Orderly Room by the competent authority and after taking into consideration the averments made by the applicants in their representation, the disciplinary authority passed a detailed and speaking order. So also is the order of the appellate authority. Therefore, we do not find any infirmity in the impugned orders, which have been passed for maintenance of discipline in the police force.

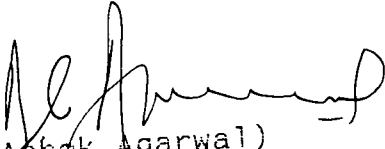
9. We would also like to record here that strict rule of evidence is not applicable in DE proceedings. It is only the rule of preponderance of probabilities that is applicable in DE. The Tribunal exercising the jurisdiction of judicial review would not interfere with the findings of fact arrived at in the DE proceedings except in a case of mala-fide or perversity. No such thing has been alleged by the applicants. Again the



Tribunal cannot embark upon reappreciating the evidence like an appellate authority. So long as there is some evidence to support the conclusion arrived at by the competent authority, the same has to be sustained. In this view of ours, we are fortified by the judgement of the apex court in the case of Bank of India & Anr. V. D.Suryanarayana, JT 1999(4) SC 489.

10. For the detailed reasons discussed above, we find no merit in the present OA and the same deserves to be dismissed. We do so accordingly. There shall be no order as to costs.


(M.P. Singh)
Member(A)


(Ashok Agarwal)
Chairman

/gtv/