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Central Administrative Tribunal, Principal Bench

O.A. 338/1999

New Delhi, this the 10th day of November, 2000

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

Shri Ram Lal Bhatia,
Sub-Inspector
1835/D/III Bn./DAP

....Applicant

(By Advocate: Shri T.N. Tripathi)

Versus

1. Dy. Commissioner of Police
III Bn. DAP, Delhi
2. Joint Commissioner of Police (A.P.),
Police Head Quarters, M.S.O. Building,
New Delhi
3. Commissioner of Police,
Police Head Quarters
M.S.O. Building, I.P. Estate,
New Delhi

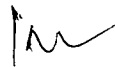
....Respondents

(By Advocate: Shri Vijay Pandita)

ORDER (ORAL)

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

Applicant who is a Sub-Inspector of Delhi Police, has filed this OA challenging the orders of the disciplinary authority vide which he was awarded the punishment of withholding of three increments for a period of three years with immediate and cumulative effect.

2. The main ground taken by the applicant to challenge the impugned order is that no evidence of any independent witness is on record and the punishing authority has proved the alleged charge by importing his personal views against the conclusion of the enquiry officer. It is pleaded that the disciplinary authority had relied upon the false statements of two criminals namely Shri Gulshan Kumar and Shri Harjinder Singh who are
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on police record due to their involvement in many cases and the disciplinary authority should not have relied upon their statements. Applicant has also taken the plea that disciplinary authority has not afforded to him an opportunity of personal hearing prior to taking final decision in his case. As such, it is prayed that action taken by the disciplinary authority in arriving at a decision against the applicant without giving him opportunity to defend himself, is bad in law and the same is liable to be quashed.

3. However, in view of the fact that the disciplinary authority, not agreeing with the findings of the enquiry officer who held the charge framed against the applicant as not proved, gave a disagreement note to the applicant to enable him to make a representation against that, the applicant was given full opportunity to defend himself. The disciplinary authority, after carefully examining the findings of the enquiry officer as well as representation of the applicant, had passed the final orders against the applicant. Appeal preferred by the applicant against the orders of the disciplinary authority was also rejected.

4. We have heard the learned counsel for the parties and gone through the records.

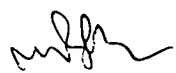
5. The main ground taken by the applicant is that no independent witness was examined in the enquiry and the disciplinary authority relied upon the statements of two

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criminals and on the basis of their statement, held the applicant guilty. To our mind, this cannot be a ground to quash the impugned order because those two persons whose names are alleged to be on police record, are themselves the complainants in this case on the basis of which enquiry was initiated as such they were the material witnesses.

6. Moreover, it is well settled law that in exercise of its power of judicial review, the Tribunal cannot re-appreciate the evidence until and unless the findings are perverse and against the principles of natural justice and if the proper opportunity has not been provided to applicant to defend his case in the disciplinary enquiry.

7. While exercising the power of judicial review, the Tribunal is supposed to go in the process of arriving at a finding by the disciplinary authority and since that process has not been challenged by the applicant in this OA, we find ourselves unable to interfere in the impugned order. The OA is, therefore, dismissed. No costs.


(M.P. Singh)
Member (A)


(Kuldip Singh)
Member (J)

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