

Central Administrative Tribunal, Principal Bench.

O.A. 64/1999

New Delhi, this the 15th day of November, 2000

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

Munni Singh S/o Shri Khajan Singh
R/o D-7/81, Dayal Pur Extension,
P.S. Gokulpuri,
Delhi.

..Applicant

By Advocate: Shri Ajesh Luthra.

Versus

1. Union of India
Through Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. The Commissioner of Police,
MSO Building, Police Head Quarters,
I.P. Estate,
New Delhi.
3. The Sr. Additional Commissioner of Police
(Intelligence),
MSO Building, Police Head Quarters,
I.P. Estate,
New Delhi.
4. The Deputy Commissioner of Police,
Special Branch,
MSO Building, Police Head Quarters,
I.P. Estate,
New Delhi. ..Respondents

By Advocate: Shri Vijay Pandit.

ORDER

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

Applicant Shri Munni Singh who was working as Head Constable in Delhi Police and was posted at Police Post Khajoori Khas, was proceeded departmentally and was punished vide order, Annexure A-3 passed by the disciplinary authority whereby the disciplinary authority had imposed a punishment of reduction in rank upon the applicant and he was reduced to the rank of Constable from Head Constable

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for a period of 2 years with immediate effect. Appeal filed against this order was also rejected vide Annexure A-2. Revision filed against this order was also rejected vide order Annexure A-1 by the Commissioner of Police.

2. The allegations on which the applicant was proceeded departmentally are that on 7.9.1996 while he was posted at Police Post Khajoori Khas, he had illegally detained one Talewar and released him after taking gratification of Rs.300/-. The said Talewar was interrogated by a Policeman while he was going to deliver the Gas Cylinder. That Policeman brought Talewar to PP Khajoori Khas and handed him over to Head Constable Munir Singh. On these allegations after supplying the relevant charge-sheet and documents, the Enquiry Officer was appointed and enquiry was conducted wherein various witnesses were examined and cross-examined by the applicant and thereafter the Enquiry Officer found him guilty of the illegal detention of the said Talewar. However, the Enquiry Officer held that the allegations regarding accepting of illegal gratification does not stand proved. The report was submitted to the disciplinary authority who passed the impugned order.

3. To challenge the impugned order the applicant contended that since the allegations disclose commission of cognizable offence by a police officer of subordinate rank so before initiating enquiry against him an approval of the Additional Commissioner of Police was required as envisaged under Rule 15(2) of the Delhi Police (Punishment & Appeal) Rules, 1980 and since no approval of the Additional

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Commissioner of Police was obtained, so initiation of enquiry itself is bad. However, the learned counsel for the respondents in reply to the same has placed on record the proceedings vide which order from the Additional Commissioner of Police was obtained before initiating the enquiry, so we find that this ground, as taken up by the applicant, has no merits.

4. The next ground taken by the learned counsel for the applicant was that the Inquiry Officer itself had returned the findings that the charge against the applicant for receiving illegal gratification had not been proved. However, the said Enquiry Officer had erred while holding that the charge of illegal detention had been proved against the applicant. So on this the learned counsel for the applicant referred to the statement of witnesses and stated that none of the witnesses had proved that the said Shri Talewar was detained at the Police Station illegally. The counsel for the applicant pleaded that since Shri Talewar was brought to the Police Station on the pretext that he was selling Gas Cylinder in black market so he was supposed to conduct an enquiry and after the enquiry he had immediately released the said Talewar when the Gas Agency Holder/owner reached the Police Station and informed the applicant that the said Talewar was his employee engaged by the Gas Agency to deliver the gas at the residence of the consumers and since verification was a must and for the period till the Gas Agency owner came the said Shri Talewar remained at the Police Station and as such the said detention does not amount as illegal detention of the said Talewar.

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5. The counsel for the applicant further submitted that the applicant being a Police Officer was under a legal duty to verify the facts whether the said Shri Talewar was selling gas in black market or not and for the purpose of verification said Shri Talewar has spent sometime at the Police Station which does not amount to detention of said Shri Talewar.

6. To our mind, this contention of the learned counsel for the applicant has no merits. First of all the applicant by making these submissions had impliedly made submissions to reappraise the evidence recorded by the Enquiry Officer and the findings arrived at by the Enquiry Officer as has been confirmed by the disciplinary authority, appellate authority and revisional authority. We may point out that while exercising the powers of judicial review the Tribunal is not supposed to reanalyse the evidence recorded by the Enquiry Officer and the findings arrived at by the Enquiry Officer. The Tribunal can certainly go into a question if it is a case of findings arrived at without any evidence in the enquiry which may be called a case of "no evidence" or the findings arrived at are totally perverse findings, then the same cannot be sustained.

7. But from a perusal of the evidence in this case recorded during the enquiry we find that it is almost an admitted case that the said Shri Talewar was brought to the Police Station. He was detained at the Police Station without any complaint and for conducting the so called verification of the antecedents of Shri Talewar the applicant had not made any record nor made any entry in the
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Daily Diary, so on his own whims he had detained him and on his own whims he had released him and the Enquiry Officer can return the findings on preponderance of probabilities and during the departmental enquiries the strict proof of evidence is not required to prove the guilt of the charged official beyond reasonable doubt. In this case since the fact that the said Talewar had been detained at the Police Station for which no record was maintained, that itself was sufficient for the Enquiry Officer to hold that the applicant had detained the Talewar at the Police Station illegally. So we find that the OA does not call for any interference and the Enquiry Officer had rightly returned the findings holding the applicant guilty on the charge of illegally detaining an innocent person.

B. In view of the above, OA has no merits and the same is dismissed. No costs.

m/sd
(M. P. Singh)

Member (A)

K.S.
(Kuldeep Singh)
Member (J)

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