

Central Administrative Tribunal
Principal Bench

O.A. No. 958 of 1998

New Delhi, dated this the 3rd MAY, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Gokul Ram Meena,
S/o Shri Sona Ram,
R/o Village Bhanipura,
P.O. Nathawala,
P.S. Shahpura, .. Applicant
Dist. Jaipur, Rajasthan.

(By Advocate: Shri S.K. Gupta)

Versus

1. Govt. of NCT of Delhi,
through the Chief Secretary,
5, Sham Nath Marg, Delhi.
2. Commissioner of Police,
Police Headquarters,
I.P. Estate, New Delhi.
3. Sr. Addl. Commissioner of Police (A&T),
Police Headquarters, I.P. Estate,
New Delhi.
4. Dy. Commissioner of Police,
3rd Battalion, D.A.P.,
Vikaspuri, New Delhi.
5. Ramesh Pal Singh,
Enquiry Officer,
C/o Dy. Commissioner of Police,
3rd Battalion, D.A.P., .. Respondents
Vikaspuri, New Delhi.

(By Advocate: Mrs. Sumedha Sharma)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns the enquiry report dated 12.11.96 (Annexure A-1), the disciplinary authority's order dated 9.1.93 (Annexure A-2); the appellate order dated 7.7.97 (Annexure A-3) and the revision order dated 6.12.98 (Annexure A-4).

(3)

2. Applicant was proceeded against departmentally on 27.8.96 on the allegation that on 16.7.96 while posted at New Delhi Lockup for production of undertrial persons he was detailed to produce UTP Vikram Singh involved in case FIR No. 355/93 P.S. Tilak Marg, New Delhi in the Court of Smt. Renu Bhatnagar, Metropolitan Magistrate. On reaching the Court applicant found the Court overcrowded and he sat outside on a Bench with UTP in his custody without informing the Naib Court. While he was sitting he went off to sleep and the UTP finding this opportunity slipped away from applicant's lawful custody.

3. Applicant was suspended by order dated 17.7.96, but was subsequently reinstated on 23.7.96.

4. The E.O. in his findings held the charge as proved.

5. A copy of the E.O's report was furnished to applicant for representation, if any.

6. Applicant submitted his representation on 24.12.96 and after considering the same, and also the other materials on record, the disciplinary authority after agreeing with the E.O's findings imposed the penalty of dismissal from service vide impugned order dated 9.1.97 which was upheld in appeal on 7.7.97 and also in revision on 6.12.98 giving rise to this

O.A.

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7. The first ground taken by applicant is that on 13.9.96 he had sought a list of documents to be supplied, but some of the documents supplied were not legible. This assertion has been denied by respondents, and in any case applicant has not succeeded in establishing which particular document was so illegible as to be unable to be read, and was so vital to his defence, as to vitiate the entire enquiry. Hence this ground fails.

8. The next ground taken is that charge was framed against applicant and enquiry was held ex parte by the E.O. without waiting for orders on applicant's plea addressed to Respondent No. 3 for change in the E.O. In reply respondents state that the E.O. was compelled to proceed ex parte in the D.E. because of applicant's non-cooperation and failure to join the proceedings till the framing of the charge, despite several notices sent to him. Applicant has not succeeded in establishing as to how the proceedings were vitiated, when he himself failed to cooperate, and did not avail of all the opportunities afforded to him to defend himself in the case. Hence this ground also fails.

9. The next ground taken is that by respondents' order dated 5.8.96 (Annexure A-8) applicant was on guard duty 24 hours in the day, and hence he was not in a position to prepare his defence effectively. Respondents have denied this assertion in the corresponding para of their reply. They state

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that orders for providing substitute in the event of any guard proceeding on any kind of leave/rest/absence etc. were also issued and applicant was replaced/relieved to join the D.E. proceedings. Applicant has not shown any material to satisfy us that despite his asking to be relieved for some time to enable him to prepare his defence in the D.E., the same was refused. Hence this ground also fails.

10. It has next been contended that the UTP was later on apprehended and punished and the penalty of dismissal is, therefore, excessively harsh and excessive. Under Rule 29 (3) Delhi Police (Punishment & Appeal) Rules, dismissal or removal from service shall normally follow a finding of guilt in a departmental enquiry for negligence resulting in the escape of a prisoner. In the light of this rule position, the penalty cannot be said to warrant judicial interference. However, if upon any prayer made by applicant for reconsideration of the penalty, respondents themselves are disposed to consider the prayer sympathetically, nothing contained in this order will preclude them from doing so.

11. Subject to what has been stated in Para 10 above, the O.A. is dismissed. No costs.

A. Vedavalli

(Dr. A. Vedavalli),
Member (J)

karthik

Arulog

(S.R. Adige)
Vice Chairman (A)