

69

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.108/98

New Delhi, this the 23rd day of November, 2000

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Sub-Inspector Lajja Ram No.587/D, S/O
Late Sh. Budh Ram, aged about 48 years,
presently posted in Central District, R/O
117, Police Colony Ahta Kedara, Idgarh,
Delhi.

....Applicant.

(By Advocate: Sh. Sachin Chauhan, proxy for
Sh. Shanker Raju)

VERSUS

1. Union of India, through its Secretary, Ministry of Home Affairs, North Block, New Delhi.
2. Addl. Commissioner of Police, Northern Range, Police Head Quarters, IP Estate, New Delhi.
3. Dy. Commissioner of Police, Central District, Darya Ganj, New Delhi.

....Respondents.

(By Advocate: Ms. Neelam Singh)

O R D E R (ORAL)

By Hon'ble Shri Justice Ashok Agarwal, Chairman

Applicant who is a Sub-Inspector in Delhi Police was proceeded departmentally under the following charges:-

"I, S.D.Sharma, ACP/D.Ganj, hereby charge you. S.I. Lajja Ram No.507/D.U/S-21 of D.P.Act 1978 as it is alleged against Ganesh R/O H.No.5369 Laddu Ghati Pahar Ganj his friend Mahender, brothers of Geeta to come to the police station on 4.3.94 in connection with enquiry into the report of theft made by one lady Santosh W/O Tulsi R/O H.No.5368 Laddu Ghati Pahar Ganj, Delhi. Although no case of theft has been found to be registered in this regard. Without formally registering a case SI Lajja Ram has shown undue enthusiasm to enquire into the report of theft and this is likely to have put Geeta and her brother under some mental tension. SI Lajja Ram

[Signature]

(2)

has failed in his duties in not registering a case although a complaint of theft was received at the PS and marked to him for enquiry. He has also failed in his duties in pursuing the matter by showing undue interest although there was no case registered."

2. Enquiry Officer by his report has found the aforesaid charge proved against him. Based on the findings, disciplinary authority by his order passed on 13.12.94 has accepted the aforesaid findings and has imposed a penalty of withholding of two increments permanently with a direction that the suspension period from 24.3.94 to 19.4.94 be treated as not spent on duty. Aforesaid order of the disciplinary authority has been maintained by the appellate authority by an order passed on 23.5.96. Aforesaid orders are impugned by the applicant in the present OA.

3. Sh. Sachin Chauhan, learned proxy counsel appearing on behalf of the applicant has pointed out that before the initiation of the disciplinary proceedings, a preliminary enquiry had been conducted. The statements of several witnesses had been recorded. Applicant had moved an application before the EO for being furnished with a copy of the statement of one Ms. Geeta D/O Late Sh. Nathuram recorded in the preliminary enquiry. Applicant was not furnished with a copy of the statement. Aforesaid Ms. Geeta was examined as PW-3. In the circumstance, it is contended by the learned proxy counsel that the applicant has been seriously prejudiced in the matter of cross-examination of the said witness. He has placed a reliance in the case of **State of U.P. Vs. Shatruघan Lal & Anr.** reported as JT 1998 (6) SC 55 wherein it has, inter alia, been observed as under:-

N.J.

"6. Preliminary inquiry which is conducted invariably on the back of the delinquent employee may, often, constitute the whole basis of the charge-sheet. Before a person is, therefore, called upon to submit his reply to the charge sheet, he must, on a request made by him in that behalf, be supplied the copies of the statements of witnesses recorded during the preliminary enquiry particularly if those witnesses are proposed to be examined at the departmental trial. This principle was reiterated in Kashinath Dikshita V. Union of India & Ors. (1986) 3 SCC 229 (supra), wherein it was also laid down that this lapse would vitiate the departmental proceedings unless it was shown and established as a fact that non-supply of copies of those documents had not caused any prejudice to the delinquent in his defence.

4. We have considered the aforesaid contention in the light of the aforesaid observations contained in the aforesaid case and we find that the same does not merit consideration on the ground that non-furnishing of the said copy, in our view, has not caused any prejudice to the applicant. The evidence of PW-3 as found from the enquiry report reads as under:-

"PW-3 :- That she resides at above noted address alongwith her brother. On 3.3.94 at 9.30 PM SI Lajja Ram came to her house and took her and her brother Yogender to P.S. Pahar Ganj Delhi for enquiry in the theft in the house of her neighbour Santosh. Earlier at 8.30 PM SI Lajja Ram called her and Mahender through Constable and told to some at 10 AM in PS next. After taking them to PS they were harassed and beaten. SHO Sh. J.L. Sawhani was also present, who threatened her of dire consequences if the truth was disclosed. After about 2 1/2 hours SI Lajja Ram left and locked her in a room. Next day at about 9.30 PM she was released and told to return with her brother at 10 AM when she reached near her house one child told that her house is at fire. There she found that fire brigade had taken her brother Ganesh to Hospital. People told that he had committed suicide. When she was

returning from Hospital, two policeman asked her to came in Police Station. Where her signatures were taken blank papers. On 8.3.94 SHO/J.L.Sawhany and SI Lajja Ram came to Dharam Sheila and offered Rs.50,000/- to keep her mouth shut. They also threatened that before killing her, her younger brother shall be killed. She returned to comply. Later she moved an application to the High Court. Her brother committed suicide due to undue harassment. I found it written on walls "HAM NE CHORT NAHI KE" NA III HAM PAR KISINE IS AURAT NE HUMPAR ILJAM LAGAYA HAI MARNE WALA INSAN KABHI JHOOT NAHEN BOLTA". Later during clearing of room one letter written by Ganesh was also found, where copy was given at the police station Pahar Ganj."

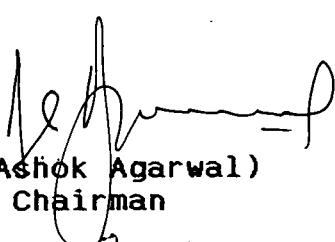
5. We have ^{already} ~~also~~ reproduced the charge which was framed against the applicant. The same imputes an allegation of non-registration of an offence of theft and of having continued with the investigation ^{of} ~~with~~ the case showing undue interest. Aforesaid evidence Ms. Geeta, we find, wholly dehors the aforesaid charge. As far as the charge is concerned, it is undisputed that applicant who is working as SI had been informed of the theft having been committed. It is further undisputed that applicant has failed to register the offence and it is finally undisputed that he has proceeded with ~~the~~ investigation of the case without registering the offence. In the circumstances, we find that non-supplying of a copy of the statement of Ms. Geeta recorded during preliminary enquiry has not even remotely prejudiced his defence. Aforesaid contention, in the circumstances, is rejected.

6. We further find that the aforesaid finding of guilt which has been clearly brought home against the applicant can be supported on admitted facts which have

(5)

been brought on record. ~~In the circumstances~~ ^{further} We find that the order of penalty is quite commensurate with the measure of misconduct of non-registration of criminal case. found against him.

7. Present OA, in the circumstances, is devoid of merit and the same is accordingly dismissed without any order as to costs.


(Ashok Agarwal)
Chairman


(S.A.T. Rizvi)
Member (A)

/sunil/