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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
New Delhi

O.A. No. 1121/1998

New Delhi, this 19th day of the December, 2000

HON'BLE MR. V. K. MAJOTRA, MEMBER(A)
HON'BLE MR. SHANKER RAJU, MEMBER(J)

1. H.C. Puran Singh No. 360/SD
Working in Delhi Police,
PS Greater Kailash -I,
New Delhi.
2. H.C. Prem Singh No.26/Est.
PS Shakarpur
Delhi Police, Delhi.
3. Ct. Virender Singh No. 922/SW
PS Mayapuri, Delhi Police
New Delhi.
4. Ct. John Patrick No. 904/W,
PS Nagloi,
Delhi - 110041. Applicants

(By Advocate : Shri S.K. Sinha)

Versus

1. National Capital Territory of Delhi
through
The Commissioner of Police
Police Head Quarters, I.P. Estate
Near ITO, New Delhi.
2. Sr. Additional Commissioner of Police
(A.P. & T)
Police Head Quarters, I.P. Estate
Near ITO, New Delhi.
3. Deputy Commissioner of Police
IIIrd Battalion,
Delhi Police, Delhi
4. Astt. Commissioner of Police,
IIIrd Battalion,
Delhi Police, Delhi Respondents

(By Advocate : Shri Ashwani Bhardwah, proxy counsel
for Shri Rajan Sharma)

ORDER

HON'BLE MR. SHANKER RAJU :

In this OA all the applicants employed as Police
officials in different ranks in Delhi Police, have

challenged an order of major punishment whereby through an order the applicants services have been forfeited permanently for a period of one year with reduction in pay and withholding of increments vide an order dated 14.3.1997 passed by the Deputy Commissioner of Police. The aforesaid order has been carried separately by each applicant to the appellate authority and their appeals have been rejected by the appellate authority by passing separate speaking orders.

2. The brief history of the case is that all the police officials have been instrumental at one point of time in withholding Constable Bisham Kumar who had come from transfer to IIIrd Battalion DAP from 1st Battalion DAP and allocated to 'A' Coy to join Old Delhi Lock-up duty. The aforesaid Constable remained at H&A Coy and was performing general duties in derogation of the directions given by the superior authority. Ultimately, the said Constable Bisham Kumar was found involved in a criminal case of Decoity, vide registration of case FIR No. 14/96 dated 18.3.1996 under Section 395/397/34 IPC & 27/54/50 Arms Act, PS Mahipal Pur, Palam, Delhi.

3. The learned counsel for the applicants has contested that this application on legal as well as factual contentions. The first legal contention of the learned counsel for the applicants is that the applicants have been awarded a multiple punishment, which is not in accordance with rules 8 (d) of Delhi Police (Punishment and Appeal) Rule, 1980. As



alongwith forfeiture of service, pay has been reduced and their increments have been deferred. In this regard, the Full Bench of this Tribunal in the case of ASI Chander Pal Vs. UOI upheld the legal validity of rule 8 (d) (2) and observed "that reduction of pay and consequence withholding of increments is an effect of the punishment and is valid in view of provisions of FR 29". We are bound by the dictum laid down by the full bench of this Tribunal and hence, in view of this, the contention of the learned counsel for the applicants regarding multiple punishment is rejected.

4. The learned counsel for the applicants has also challenged the impugned orders on the ground of being mechanical and non-speaking. We have gone through the orders of the Disciplinary Authority as well as the order of the Appellate Authority and also the Findings of the Enquiry Officer. The findings of the Enquiry Officer is a reasoned one as per Rule 16 (9) of (Delhi Police Punishment and Appeal) Rules 1980. The contentions taken by the applicants have been mentioned discussed and after detailed reasons, the charge has been proved by the Enquiry Officer through his findings at Annexure-A2 of the OA. Likewise the order of the disciplinary authority shows that he has agreed with the findings of the Enquiry Officer, which is a detailed one. ^{He} ~~has~~ also considered the contention of the learned counsel for the applicants and recorded reasons. It is a settled law that in the event, the findings of the Enquiry Officer is reasoned one and the contention of the delinquent officer has been discussed

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and taken care of then the order of disciplinary authority would not be vitiated on the ground that he merely agreed with the findings of the Enquiry Officer and has not recorded any reason. Apart from it, as per the disciplinary authority, he has applied his mind to the contention of the applicants and the order is legal as per provisions of Section 22 of Delhi Police Act 1978.

5. As far as the individual orders passed by the appellate authority are concerned, the same do not show lack of application of mind and rather the orders are speaking, dealing with the contentions of each applicant. As such the ground taken by learned counsel for the applicants regarding non-application of mind by the appellate authority and passing a mechanical order is not legally sustainable and the same is rejected.

6. The learned counsel for the applicants has also taken a contention that Applicant No. 3 (Constable Virender Singh) has not been supplied with the documents as requested. Except making this bald submission, no further averments have been taken by the learned counsel for the applicants. He has also failed to show that the Applicant No. 3 has moved an application to the department seeking supply of documents. The learned counsel has not shown that any prejudice has been caused to Constable Virender Singh for non supply of documents. It was also not shown to us that the documents requested by this applicant has been relied upon by the respondents while holding the

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applicant guilty of the charge. The respondents, on the other hand, in their reply have clearly averred that the relied upon documents were served upon the applicant. To this, there is no denial has been made by the applicant in his rejoinder. In absence of any proof provided by the applicant and regarding non-supply of documents and also in absence of any proof regarding written request made by him regarding supply of the documents, we feel that no prejudice has been caused to him. This ground for non supply of the documents is merely a bald assertion. Hence, this plea of the learned counsel for the applicants is rejected. The learned counsel for the applicants during the course of the arguments has tried to take us to the findings recorded during the course of the departmental inquiry and has stated that the evidence has not been appreciated by the departmental authority. It is a settled law laid down by the Hon'ble Supreme Court that the role of the Tribunal in such kind of cases is not to reappreciate the evidence under the guise of judicial review or to go into the correctness of the evidence. The Tribunal is also precluded from coming to a different conclusion then what arrived by disciplinary authority in the enquiry. The Hon'ble Supreme Court in the case of Kuldeep Singh Vs. Commissioner of Police (JT 1998 Vol. 8 SC 603) has clearly laid down that "the Court would not reappreciate the evidence and judicial review is permissible only when the findings is perverse and the conclusion could not have been arrived it apppling the test of reasonable prudent man."

7. In view of the settled legal position, we refrain from reappreciating the evidence as contended by the learned counsel for the applicants. From a perusal of the record provided by the department. We feel that the aforesaid case does not fall within the category of no evidence and as such our interference in the findings arrived at the order of the disciplinary authority is, unwarranted and, therefore, the contention of the learned counsel for the applicants that this is a case of no evidence lacks merit and, therefore, is rejected.

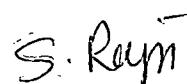
8. The learned counsel for the applicants has further contended that the other applicants have been made scape-goat as the official report has been sent by Constable Sanjiv Kumar without mentioning the name of Constable Bisham Kumar and on that report they have acted bona fide. This plea of the learned counsel for the applicants is not legally sustainable as on the similar misconduct, Constable Sanjiv Kumar was also awarded the major punishment and the same is not shown to be discriminatory by the applicant. Rather in para 4.4 of the counter affidavit, it has been shown by the learned counsel for the respondents that the punishment awarded to Constable Sanjiv Kumar is exactly what the applicants have been awarded. It is an admitted fact that each applicant has individual roles to play in posting and relieving Constable Bisham Kumar. The said Constable has been withheld illegally despite order of Superior Authority. The applicants were negligent in their performance of duty by not adhering to the

directions of the superior, where it has been clearly written that the said Constable is to be deputed to lock-up duty. Rather, the Constable kept in the general duty with the result that he found ample time to indulge in criminal activities by getting himself involved in a decoity case. Though, this part of charge has not been levelled against the applicant, but as a passing reference, the same has been mentioned by the disciplinary authority in his order, what so may be, the charge against the applicants was proved and the fact of registration of criminal case has not at all weighed in the mind of disciplinary authority to award them the severe punishment.

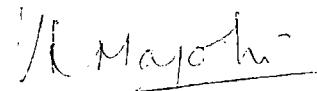
9. As we have been taken to the evidence recorded during the course of enquiry, we feel that there is sufficient evidence against the applicant to show their misconduct of lacking in performance and carelessness as well as negligence. In view of this, we do not agree with the learned counsel for the applicants that whatever has been done by the applicants was on the basis of report of Constable Sanjiv Kumar. Apart from this report, there were also orders issued regarding transfer of Constable Bisham Kumar and his deputation to the lock-up duty. This clearly shows that all the applicants unmindful of the record mechanically perpetuated the mistake committed by Constable Sanjiv Kumar. This would itself constitute a misconduct as a Police Officer is ^{Supposed} ~~subjected~~ to take his own decision after going through the record and in the present case the formal orders regarding the posting of Constable

Bisham Kumar were existing on record. As according to the statement of PW6, Asstt. Commissioner of Police, the Inspector of the said Battalion was also kept in dark by the defaulters.

10. In view of this the fact of sending the wrong report by Constable Sanjiv Kumar would not lessen the misconduct of the applicants. We feel that the disciplinary authority as well as appellate authority have taken a right decision. No other ground has been raised by the counsel for the applicants. In the result, we do not interfere in this OA as the same is devoid of merits. The OA is dismissed, but without any order as to costs.



(SHANKER RAJU)
Member(J)



(V.K. MAJOTRA)
Member(A)



/ravi/