

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1506/1998

New Delhi, this 8th day of December, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J)  
Hon'ble Shri M.P. Singh, Member(A)

Kuldeep Singh  
WZ 15C, Gali No.12  
Krishnapuri, Tilak Nagar, New Delhi .. Applicant

(By Shri Shyam Babu, Advocate)

versus

1. Commissioner of Police  
Delhi, Police Hqrs.  
I.P. Estate, New Delhi
2. Sr. Addl. Commissioner of Police  
(Intelligence)/Police Hqrs.  
IP Estate, New Delhi
3. Dy. Commissioner of Police  
(Special Branch)  
Police Hqrs., IP Estate  
New Delhi ... Respondents

(By Shri George Paracken, Advocate)

ORDER

By Shri M.P. Singh

Order of dismissal from service dated 25.4.97 and orders dated 4.9.97 and 14.5.98 whereby appeal and revision against dismissal order were rejected have been impugned by the applicant in the present OA.

2. Briefly stated, the applicant while as ASI in Delhi Police was served with summary of allegations dated 19.9.96 to the following effect:

"It is alleged against ASI Kuldeep Singh No.3916-D (PIS No.28690263) that while posted in West Zone (SB), he was entrusted with the verification of identity of passport applicant Sh. Gurmail Singh, s/o Gurmukh Singh, r/o B-78/B, Tilak Vihar, New Delhi, received from RPO vide his File No.B-02666 dt. 10.1.95. He submitted his verification report confirming the stay of the above passport applicant for more than two years at the above address.

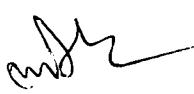


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On re-verification, it has been prima facie established that the above passport applicant was not found residing at the address given by him in the personal particulars form. Thus, he had submitted wrong/bogus verification report deliberately which resulted the applicant obtained Indian Passport No.S-403009 dt. 5.4.95 issued by RPO, Delhi"

3. The Enquiry Officer (EO, for short) after examining the PWs in the departmental enquiry, framed the charge against the applicant. The applicant was placed under suspension w.e.f. 30.10.96. During the course of the enquiry, the applicant produced a verification report given by the owner of the fair price shop and thereafter he submitted his defence statement to EO. The EO submitted his findings on 15.1.97 holding the charge as proved. On 20.1.97, R-3 sent a copy of the enquiry report and show cause notice to the the applicant asking him to submit his representation within 15 days. Applicant submitted his detailed reply on 2.4.97. Thereafter, R-3 passed the impugned order of dismissal from service dated 25.4.97 upon the applicant. Applicant preferred an appeal on 20.5.97 which was rejected by the appellate authority on 4.9.97. He preferred a revision on 6.10.97 which was also rejected by the revisional authority by order dated 14.5.98. Applicant is thus before us seeking directions for quashing these impugned orders and further directions to the respondents to reinstate him in service with all consequential benefits.

4. Respondents in their counter have contested the case. They have submitted that a DE was ordered against the applicant vide order dated 11.9.96 on the allegation that he while posted in West Zone (SB) (4) was entrusted



with an enquiry of passport applicant Shri Gurmail Singh vide RPO's file No.B-02666 dated 10.1.95. He submitted his report confirming the stay of the passport applicant for more than two years at the given address. On re-verification it has been prima facie established that the passport applicant was not found residing at the given address and thus he had submitted wrong/bogus verification report deliberately. ACP/SB who conducted the DE on day-to-day basis submitted his findings, on the basis of the statements of PW as well as DWS recorded during the DE proceedings, to the disciplinary authority and a copy of the findings was furnished to the applicant. Applicant was given full opportunity to defend himself during the DE proceedings. Applicant submitted his reply on 7.4.97. After carefully going through the reply, findings of the EO as well as his personal deposition in OR on 7.4.97, the applicant was dismissed from service by order dated 25.4.97. His appeal has been rejected after considering all the pleas taken by the applicant which were not found satisfactory by the appellate authority. So also was his revision petition, which was finally rejected. Therefore, the applicant has no case and therefore the OA may be dismissed.

5. Heard the rival contentions of the contesting parties and perused the records.

6. The learned counsel for the applicant vehemently argued to say that the re-verification report submitted by Shri R.K.Budhiraja is false and incorrect as he himself has not verified the facts by visiting the



place. Instead he has submitted his report on the basis of information given by constable Prem Singh. Shri Budhiraja has admitted in his cross examination that he had taken constable Prem Singh to assist him and record the statement of the referee particularly Smt. Kulwant Kaur. On the other hand, Smt. Kulwant Kaur never deposed in her statement that R.K. Budhiraja had recorded her statement or made any enquiry. Moreover Shri Budhiraja in his statement as PW-6 clearly stated that he assumed charge of Vigilance Branch in July, 1995 whereas constable Prem Singh has recorded the statement of Smt. Kulwant Kaur in March, 1995 when Shri Budhiraja was not even posted as in-charge. On our directions, the learned counsel for the respondents has produced the original record. After perusing the record, we find that re-verification was done on 15.3.96. Learned counsel for the applicant drew our attention to the statement of PWs to prove that the passport applicant was residing at the given address and the verification report given by the applicant was correct. This fact is also supported by a certificate issued by the owner of the ration shop, according to the applicant's counsel.

7. Learned counsel for the respondents has denied the aforesaid contentions. He would submit that the EO concluded his findings based on the statements of PWs recorded during the DE proceedings. The applicant was given full opportunity to defend himself. The re-verification was got conducted through Inspector Budhiraja who brought all the true facts on record. He took the assistance of Const. Prem Singh during re-verification, when it was confirmed that no one has



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seen Gurmail Singh on the given address. The charge against the applicant that he has given false report has been proved beyond any doubt. He further submitted that passport verification is a very sensitive job, if such acts as of the applicant are committed in the verification and if such type of persons are allowed to continue in the police force, it would create problem not only for the police department but for the nation also. He also stated that the applicant was earlier dismissed from service for the same charge of giving false report but was subsequently re-instated.

8. The learned counsel for the applicant argued that the punishment imposed on the applicant is too harsh considering the length of spotless service of the applicant. He has brought to our notice the decision of the coordinate Benche of this Tribunal in OA No.2526/1996 decided on 31.5.2000 wherein the Tribunal expressed the view that the punishment imposed was grossly excessive particularly in the absence of any malafide being clearly established and applicant's own frank admission of his lapse in conducting a thorough enquiry and ordered for remitting the aforesaid cases back to the respondents. The learned counsel submits that the applicant's case is covered by this decision and therefore he is restricting his prayer for remitting back the case to the disciplinary authority for imposing punishment commensurate with the gravity of the misconduct. He also drew our attention to the order dated 2.11.2000 in OA No.2188/98. The present OA is covered by this judgement as the applicant was heard in

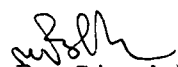


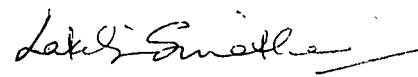
person on 18.3.98 by the then CP, Delhi and the revisional order has been passed by the CP other than the one who heard him in person.

9. As per law laid by the Hon'ble Supreme Court in a catena of judgements, the Tribunal can neither take the role of appellate authority and reappreciate the evidence adduced before the EO/disciplinary authority nor it can interfere with the quantum of punishment imposed according to the Rules on the subject. We do not find any infirmity with the findings of the EO or with the impugned orders passed. The respondents have followed the due procedure laid down under relevant Rules and they do not call for intervention. The judgement of the Tribunal in OA No.2526/96 (supra) will not render any assistance to the applicant as in the present case the applicant has been dismissed from service earlier for the same misconduct. However, we find merit in the contention of Shri Shyam Babu, learned counsel for the applicant that revisional authority while exercising statutory powers cannot pass an order relying upon the hearing given by another CP in March, 1998. In other words, the CP before passing the order in revision petition ought to have given a personal hearing to the applicant, which admittedly he has not done but has relied upon the hearing given by his predecessor. To this extent, the revisional order is unsustainable in law. We have considered the other submissions made by the learned counsel for the applicant but we do not find merit in the same.



10. In the result, OA is partly allowed to the extent that impugned revisional authority's order dated 14.5.98 is quashed and set aside. The case is remitted to the revisional authority to pass a fresh order in accordance with the relevant rules and instructions after affording a personal hearing to the applicant within a period of two months from the date of receipt of a copy of this order. No costs.

  
(M.P. Singh)  
Member(A)

  
(Smt. Lakshmi Swaminathan)  
Member(J)

/gtv/