

Central Administrative Tribunal, Principal Bench

O.A.1755/98

New Delhi, this the 25th day of August, 2000

Hon'ble Mr. Kuldeep Singh, Member (J)
Hon'ble Mrs. Shanta Shastri, Member (A)

Chhaju Ram S/o Shri Amir Singh
Head Constable No. 255/DAP (100/ND)
Resident of H-22, P.S. Sarojini Nagar,
New Delhi-110 023.Applicant

By Advocate Shri Samma Singh.

Versus

1. Commissioner of Police
Delhi Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-110 002.
2. Sr. Additional Commissioner of Police (AP&T)
Delhi Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-110 002.
3. Deputy Commissioner of Police,
1st Bn., New Police Lines,
Kingsway Camp.,
Delhi-110 009. . Respondents

By Advocate Shri Ashwini Bhardwaj, proxy for Shri Dewan
Singh, Counsel.

ORDER

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

The applicant in this case has challenged the order passed by the disciplinary authority (Annexure A) and also the order passed by the appellate authority (Annexure -B) vide which the appellate authority had confirmed the order of disciplinary authority awarding the penalty of withholding of next increment temporarily for a period of one year to Ex. HC Chhaju Ram (the applicant).

2. The facts in brief are that the departmental proceedings were taken up against the applicant on the charges framed as under:-

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I. Inspector Randhir Singh (E.O) charge you, the applicant No.255/DAP is that while working as HC/Local Purchase, called by Shri M.J.S. Singh Mattoo, ACP/Adjutant in connection with some official work, but you were not found in the stores as well as in the lines premises. On enquiry it came to notice that you had not sought any permission from the senior officers before leaving the lines premises. Inspector R.C. Sapra/QMI, Ist Bn. DAP was also asked by Shri M.J. Singh, ACP/Adjutant about your absence, but he was also ignorant of the same. Shri R.C. Sapra, QMI/Ist Bn. DAP immediately lodged D.D. entry 39-A on 8.12.94 regarding your absence in the Roznamcha. Shri M.J. Singh, ACP/Adjutant through Constable Surinder Pal Singh 368/DAP and BHM/Ist Bn. DAP lodged DD No.44-A on 8.12.94 directing the applicant to appear before him on 9.12.94 in his office at 10.00 A.M.

The applicant appeared before ACP/Adjutant on 9.12.94, who enquired regarding your whereabouts on 8.12.94 instead of giving proposed reply.

The applicant spoke in a very indisciplined manner in presence of Inspector Harbans Lal Arora, P.A. to DCP/Ist Bn. DAP and shouted as under:-

"I am working for the seniors and I have not time to listen you and you are not authorised/supposed to call me with regard to my presence or absence".

During orderly Room, you had neglected all norms of discipline and misbehaved with the ACP/Adjutant in presence of Inspector Harbans Lal Arora. Therefore, you were placed under suspension by Shri M.J. Singh, ACP/Adjutant with immediate effect. Formal approval thereof was accorded by the disciplinary authority.

The above act on your part amounts to grave misconduct, insubordination, indiscipline, unbecoming of a police official and dereliction in the discharge of your official duties which render you liable for punishment as envisaged under Section 21 of Delhi Police (Punishment & Appeal) Rules, 1980".

3. An enquiry was conducted and in the findings by Inquiry Officer, the applicant was held to be guilty and was called upon to submit his defence and after following the due procedure, the impugned orders were passed.

4. The learned counsel appearing for the applicant submitted that enquiry was initiated because of the biased attitude of ACP Shri M.J.Singh Mattoo who was inimically disposed towards the applicant. The main grounds taken up

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by the applicant in the OA to assail the impugned orders were that the prosecution has utterly failed to establish its case and it was emphasised that the analysis of the prosecution evidence on record will show that the story of the prosecution is concocted, cooked-up and manufactured by Shri M.J.S. Mattoo with active connivance of Inspector Harbans Lal Arora.

5. It is also submitted that only 4 witnesses had been examined out of which two are formal witnesses. The Statement of Inspector Harbans Lal Arora, who was the only key witness, has been tainted with bias and no reliance could have been placed on his statement as he has made statement under the pressure of ACP Shri M.J.S. Mattoo. He has also alleged that there are material contradictions between the statement of Shri M.J.S. Mattoo, ACP and Inspector Harbans Lal Arora.

6. The next ground taken by the applicant is that in the cross-examination defence witnesses have given evasive reply and the contradictory statement made by the ACP is itself sufficient to uproot the theory of prosecution. The entire grounds taken up by the applicant to assail the impugned orders show that the applicant has stated that on evidence that the case against him has not been proved. The applicant had not been held guilty only because of the prejudicial and bias attitude of Shri M.J.S. Mattoo, ACP.

7. On the contrary, the respondents' counsel submitted that even the applicant in his OA admits that the proper procedure has been followed as in para 4.V he

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says that Inquiry Officer was appointed, who along with the summary of allegation supplied the list of witnesses and documents. Applicant was submitted the list of defence witnesses who were 15 in number. It is also stated that the applicant after having examined the 15 defence witnesses, had submitted his defence statement to rebut the case of the prosecution. This shows that the applicant has not been able to challenge the process of conducting of enquiry at all. His main grievance is to the effect that the evidence which has been relied upon by the Inquiry Officer and the disciplinary authority is a concocted one, only made up witnesses had been believed and the same should not have been relied upon. The counsel for the respondents submitted that the proceedings before the Tribunal are in the nature of judicial review and not as an appellate court. So this Tribunal cannot reappreciate the evidence and even if the court is of the view that a different view could have been taken while exercising the power of judicial review, then also the Tribunal cannot substitute its own findings based on the evidence against the findings arrived at by the departmental authorities.

8. As far as the prejudice of Shri M.J.S. Mattoo is concerned, during the course of arguments, the counsel for the applicant has pointed out that earlier Shri M.J.S. Mattoo had himself punished the applicant and had awarded a censure but this punishment had been upset by the Commissioner of Police. On this aspect the learned counsel for the respondents submitted that it is a fact that Shri M.J.S. Mattoo, ACP, who had awarded a punishment of censure to the applicant against which the applicant

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had filed a revision before the Commissioner of Police in that revisional authority did not hold that the applicant was not guilty, but had simply stated that instead of censure warning should have been commensurate punishment. So no allegation of bias can be inferred against Shri M.J.S. Mattoo as his order of holding the applicant guilty had been upheld.

9. The counsel for the applicant has also pleaded that Shri M.J.S. Mattoo was biased towards the applicant because he had not provided a Dhobi of his choice to him for his private work and for this he had got initiated this enquiry.

10. First of all, all such type of allegations cannot be looked into by the Tribunal and it was for the departmental authorities itself and since these pleadings are taken up before the departmental authorities itself and have been properly considered, so we do not find any ground to interfere on this score also. Such type of allegations are not looked into during the process of judicial review of orders of disciplinary authority.

11. The argument regarding appreciating of evidence by the authorities cannot stand before the court as this court is not exercising the powers as appellate court. It is fundamental principle of jurisprudence that while exercising the power of judicial review the court has to examine the process followed by the disciplinary authority and not to re-appreciate the evidence. The entire episode of bias against Shri Mattoo, ACP was also to be looked ^{into} _{by the} disciplinary & appellate authority and not by the court.

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12. The learned counsel appearing for the applicant was not able to make any ground to show that the departmental proceedings were tainted by violation of any rules and regulations or by any principles of natural justice, so we find that there is no ground to interfere with the orders passed by the disciplinary authority.

13. In view of this OA warrants no interference and the same is dismissed. No costs.

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(Mrs. Shanta Shastri)
Member (A)

Kuldip Singh
(Kuldip Singh)
Member (J)

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