

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO. 2079/1998

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New Delhi this the 20th day of November, 2000

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

Ex.Constable Asha Ram No. 730/A,
S/o Shri Dharam Singh, aged 36 years,
Previously employed in Delhi Police,
R/o Village Kheri Sanwal, P.O. Dhani, phugat
Distt. Bhiwani, HaryanaApplicant
(By Advocate : Shri Shankar Raju)

Versus

1. Union of India,
Through Its Secretary,
Ministry of Home Affairs,
North Block, New Delhi
2. Commissioner of Police,
Police Head Quarters, I.P. Estate,
New Delhi
3. Sr. Addl. Commissioner of Police,
Planning and Implementation,
Police Head Quarter, I.P. Estate,
New Delhi
4. Dy Commissioner of Police,
I.G.I. Airport,
I.G.I. Airport,
New DelhiRespondents
(By Advocate : Shri Ram Kanwar)

O R D E R (ORAL)

By Shri S.A.T. RIZVI, Member (A) :

On 20th November, 2000, this OA was, after
hearing, disposed of with the following order:-

"For the reasons to be recorded
separately, we find that the present
OA is devoid of merit. The same is
accordingly dismissed. No costs."

2. We now proceed to record reasons, which weighed
with us while passing the aforesaid order.

OR

3. The applicant (Constable) was detailed for performing the duties of Naib Court in the Court of ACMM and he worked for P.S. I.G.I. Airport. On 10.5.1989, the applicant was directed by the Court to send the bail bond presented by one Shri Rajinderpal Singh for verification. The said Shri R.P. Singh had offered to bail out one Shri Nageshwar arrested under Section 419/420/468/471/34 IPC. However, the applicant did not send the bail bond presented by the aforesaid surety for verification to the P.S. I.G.I. Airport till 12.5.1989. When the surety aforesaid, approached the applicant, the applicant accompanied him to his residence and also to his shop and verified the documents in respect of the residence as well as the shop of the surety (Shri R.P. Singh). While preparing the said verification report, the applicant demanded bribe of Rs. 500.00 which was paid to him by the surety. The applicant, however, did not submit the report in the Court on the advice of another Naib Court (Shri I.D. Mathur) of the Prosecution Branch working in the same Court. The applicant is alleged to have taken the plea that the report was yet to be forwarded by the SHO, IGIA. The said Shri I.D. Mathur offered to help the surety in getting the report forwarded by the SHO, IGIA, and demanded Rs.2000.00 as bribe for doing this work. The surety refused to pay this extra amount and got the bail directly from the Court on 12.5.1989. Thereafter, on the complaint of the said surety, the other Naib Court (I.D. Mathur) was caught red handed accepting a bribe of Rs.200.00 from the same surety on 15.5.1989 outside the Court of ACMM. It is alleged that the applicant worked

in collusion with the other Naib Court (I.D. Mathur) while harassing the surety and extorting money from him as above. 9

4. On the aforesaid charge, the applicant was tried departmentally and dismissed from service by disciplinary authority's order dated 7.6.1996. The applicant went in appeal, which too was rejected on 4.9.1996. Thereafter, he approached the Revisional Authority. Here also he met the same fate and his plea was turned down by the Revisional Authority (Commissioner of Police, Delhi) on 6.3.1998.

5. The learned counsel for the applicant raised several contentions about the evidence given by the various witnesses on both sides, the findings and the report of the Enquiry Officer (E.O) as well as the orders passed by the Disciplinary Authority, the Appellate Authority and the Revisional Authority. With his help we have, therefore, gone through the findings and the report of the Enquiry Officer including the statements of witnesses as reported in the E.O's report. We have also glanced through the orders passed by the Disciplinary Authority and the others.

6. The most important witness is the surety (Shri R.P. Singh) himself and he, we find, clearly and unequivocally stated the facts as already described in Para-3 above. We find that the evidence points to

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collusion between the applicant and the other Naib Court in unmistakable terms, and the entire episode culminated in the arrest of the said Shri Mathur on 15.5.1989 while accepting bribe from the surety. What is important is that the applicant was bribed by the surety and it is not material whether the amount of bribe was given by the surety himself directly to the applicant or was passed to the applicant by someone, who worked for the surety. This witness has been cross-examined on behalf of the defaulter, but nothing of any help to the applicant has come out of cross-examination. The learned counsel for the applicant drew our attention to the evidence given by the person who is alleged to have passed the bribe money to the applicant on his behalf. This fellow has been examined as DW-4. Evidence shows that this fellow was working for the surety at his medical shop and had been thrown out by the surety. In view of this, the said witness (DW-4) expectedly gave evidence against the fact of bribe money having been passed to the applicant through him. But all that has come out from this witness is that the bribe money was not passed to the applicant through him. The fact that bribe was indeed given to the applicant has not been specifically denied by the said witness. The said witness had evidently been won over by the applicant. The prosecution evidence in support of the charge is consistent and reliable and cannot be faulted. The complainant, who is a civilian bears no enmity towards the applicant and, therefore, it cannot be alleged that he has made a false report against the applicant. The applicant raised the contention of the bail bond having been marked initially for P.S. Kashmiri Gate and thereafter, the ACMM correcting the wrong marking by means of cutting/over-writing. The

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respondents have asserted that the cutting/over-writing, in question, has not been signed or initialled by the ACMM and, therefore, the plea that the verification of the bail bond got delayed due to the wrong marking of the P.S. is totally baseless. (11)

7. There is no force in the applicant's contention that the respondents have committed the breach of Rule 14 (4) of Delhi Police (Punishment & Appeal) Rules 1980. The respondents have asserted that the applicant was posted in the same Unit at the time of delivery of the summary of allegations and, therefore, it is incorrect to argue that the applicant was not then working under the disciplinary control of the respondents. Similarly, it is incorrect to argue in terms of Rule 16 (v) of the Delhi Police (Punishment & Appeal) Rules, 1980, which clearly entitles an enquiry officer to frame questions he may wish to put to witnesses to clear ambiguities or to test their veracity. We find nothing wrong if the enquiry officer, in this case, has put a few questions as per the Rule. We find from the E.O's report and the statements of the witnesses that the applicant failed to perform his primary duties as Naib Court. It was his duty to ensure that the bail bonds meant for P.S. I.G.I. Airport are got verified promptly. He failed in this duty and wanted to shift the blame on others.

8. We have, as stated, perused the report of the Enquiry Officer and the orders passed by the Disciplinary Authority and the others. We find that the orders passed are speaking and reasoned orders. We find nothing wrong


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with the findings and the Enquiry Officer's report. The procedure followed for conducting the departmental proceedings has been properly and scrupulously followed and the punishment inflicted is justified in the facts and circumstances of this case.

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9. For the reasons given in the preceding paragraphs, the OA has already been dismissed in terms of the order dated 20.11.2000..


(ASHOK AGARWAL)
CHAIRMAN


(S.A.T. RIZVI)
MEMBER (A)

(pkr)