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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2202/98

New Delhi this the 14th day of December, 2000

Hon'ble Shri V.K. Majotra. Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Ravinder Singh
S/O Shri Hari Chand
581/A, Chirag Delhi
Malviya Nagar, Delhi

-Applicant

(By Advocate: Shri U. Srivastava)

Versus

1. National Capital Territory of Delhi,
Through the Chief Secretary,
5, Shamnath Marg, Delhi-54.

2. The Commissioner of Police,
Delhi Police Headquarters,
Indraprastha Estate,
New Delhi.

-Respondents

(By Advocate: Mrs. Meera Chhibber)

ORDER (Oral)

Shri Shankar Raju, Member (J)

Uncontroverted issue in this OA is that the applicant had been awarded an enhanced punishment under Rule-25-(B) (III) of Delhi Police (Punishment & Appeal) (Amendment) Rules, 1994. This rule has been declared ultra-vires by a Full Bench Judgment of this Tribunal in OA No. 77/97 HC Rajpal Singh Vs. Union of India & Ors with other connected matters.

2. The brief facts of the case are that the applicant while serving as a Constable. After a departmental enquiry, a major punishment of temporary forfeiture of one year approved service has been inflicted upon him along with entailing reduction in pay and with-holding of increment. The period of suspension was also treated as period not spent on duty vide order dated

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21.3.96 passed by Dy. Commissioner of Police, II Bn. Delhi. The period of unauthorised absence treated as dies-non under the provision of FR 17(1).

3. Admittedly, no appeal was preferred by the applicant against the impugned order of punishment. A show cause notice dated 4.7.96 has been issued by the Appellate Authority suo-moto without any reference to the appeal preferred by the applicant, whereby it has been proposed to the applicant to enhance his punishment from temporary forfeiture of dismissal from service under exercising purportedly the powers under Rule-25 (B) (III) of Delhi Police (Punishment & Appeal) Amendment Rules, 1994. The applicant filed a reply to the show cause notice.

4. The appellate authority exercising the power of review under Rule 25(B) (III) of Delhi Police (Punishment & Appeal) Amendment Rules, 1984 enhanced the penalty to dismissal from service and treated the period of suspension as not spent on duty vide an order dated 16.7.97. The aforesaid order has been carried in an appeal and the appellate authority through its order dated 9.7.98 rejected the appeal. The aforesaid orders are challenged in this OA.

5. In our view, on the basis of the law laid down by the judgment of Full Bench of this Tribunal in OA No. 77/97 HC Rajpal Singh Vs. Union of India & Ors with other connected matters declared Rule 25(B) (III) of Delhi Police (Punishment & Appeal) Rules, 1994, the appellate authority has exceeded his jurisdiction and without any competence enhanced the penalty from temporary forfeiture of approved service to dismissal from service. We feel that the

enhanced punishment order passed by the Appellate Authority as well as affirmed by the Revisional Authority are not legal and the same are quashed and set aside.

6. In similar cases the co-ordinate Bench of this Tribunal have allowed the matter by setting aside enhanced punishment and granting all consequential benefits to the applicants. Learned counsel for the respondents Mrs. Meera Chhibber urged before us that the order has been passed at a time when the aforesaid rule was not declared ultra-vires so the applicant would not be granted back wages. We have carefully considered the submissions of the learned counsel for the respondents but we cannot take a different view from what the co-ordinate Benches have been taken in the matter under Rule-25 (B) (III) of Delhi Police (Punishment & Appeal) Rules, 1994. As the original order of punishment has not been contested, the same would exist against the applicant.

7. In the result, the OA is allowed. The impugned show cause notice dated 4.7.96, order of dismissal dated 16.7.97 and the appellate order dated 9.7.98 are quashed and set aside. The applicant is directed to be reinstated in service and in that event he shall be entitled for all consequential benefits in accordance with law and relevant instructions. The aforesaid directions should be implemented expeditiously within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju

(Shanker Raju)
Member (J)

V.K. Majotra

(V.K. Majotra)
Member (A)

cc.