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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.623/1998

New Delhi, this 29th day of August, 2000

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Smt. Shanta Shastri, Member(A)

Arvinder Singh
M-67, WZ 114, Hari Nagar
New Delhi

.. Applicant

(By Dr.D.C.Vohra, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Home Affairs
North Block, New Delhi
2. Commissioner of Police
Police Hqrs., IP Estate
New Delhi
3. Addl. Commissioner of Police
Police Hqrs., New Delhi
4. Dy. Commissioner of Police
South West Dt. PS Vasant Vihar
New Delhi
5. Dy. Commissioner of Police
(Vigilance) Spl Br, Police Hqrs.
IP Estate, New Delhi

.. Respondents

(By Shri Ashok Chopra, Advocate, not present)

ORDER

Smt. Shanta Shastri

A departmental enquiry (DE, for short) was ordered against the applicant on 25.8.95 on the allegation that while posted in Account Branch, South West District, New Delhi, he failed to maintain absolute integrity and devotion to duty inasmuch as that a bill No.570 dated 20.10.94 including the amount of arrears of increment in respect of Head Constable Partap Singh was prepared and submitted to Pay & Accounts Office/XVI, Man Singh Road, New Delhi. The said bill was received back with certain objections. HC Partap Singh visited the Account Branch and met the applicant several times but the applicant

did not bother to draw the arrears. Shri Partap Singh also met the Head Clerk/SWD (Inspector Inder Singh) who directed the applicant to draw the arrears of Pratap Singh immediately. Thereafter Pratap Singh met the Accountant/SWD (Inspector Ujagar Singh) who got the bill prepared, which was kept pending by the applicant for about 8 months. Thus payment could be made to Partap Singh only on 30.6.95 vide bill dated 26.6.95. HC Partap Singh further alleged in his complaint dated 23.6.95 that the applicant had demanded an amount of Rs.4000 as bribe from him in order to get his arrears bill cleared which was kept pending knowingly with ulterior motive and malafide intentin. It was further alleged that sanction order of the second instalment of House Building Advance in respect of HC Ved Parkash to the tune of Rs.25,000 was received in the office of DCP/SW on 13.3.95. The sanction was required to be utilised during the financial year 1994-95 but the bill for the payment of aforesaid advance was submitted to the PAO/XVI only on 4.9.95. As a result, the PAO did not accept the bill and raised objection for the delay in submission of the case. The HBA was finally paid to HC Ved Parkash only in June, 1995, after a delay of more than three months.

2. The DE was initially conducted by Shri H.K.Vohra, the then ACP/CAW cell. On his transfer, the same was completed by Shri Prabhati Lal, ACP/Naraina, who submitted his findings concluding that the charges had been proved. Based on the findings of the EO, the disciplinary authority imposed penalty on the applicant of reducing the pay of the applicant by three stages from Rs.1560 to Rs.1470 in his time scale of pay for a

period of four years with immediate effect without having postponing effect on his further increment. He would however earn increment during the period of reduction. His suspension period from 3.8.95 to 11.9.95 was to be treated as period not spent on duty vide order dated 13.1.97. The appeal preferred against the said order was rejected on 12.9.97. The applicant has filed the present OA to set aside the impugned orders dated 13.1.97 and 12.9.97 and to cancel the order dated 2.7.97 about doubtful integrity certificate and to pay him all consequential benefits by treating the period of suspension as the period spent on duty.

3. It is the contention of the applicant that he was not at all responsible for the delay in the preparation of arrears bill of HC Partap Singh. There is no prima facie case against the applicant for demanding any bribe from HC Partap Singh as contained in the first article of charge. None of the witnesses corroborated the demanding of bribe. Even the complainant PW-6 i.e. HC Partap Singh could not establish during the enquiry that the applicant had demanded from him Rs.4000 as bribe for preparing his arrears bill. No PW deposed that the arrears bill was prepared by the applicant. The applicant was not given copies of the relevant documents. The EO has relied upon extraneous matters and did not hear the versions of PWs or DWs. Moreover the respondents have issued certificate of doubtful integrity. This amounts to inflicting further punishment upon the applicant which is not sustainable in law.

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4. The learned counsel for the respondents states that the applicant was given several opportunities to defend himself. The main document, i.e. complaint of HC Partap Singh dated 23.6.95 clearly speaks of alleged demand of bribe of Rs.4000 and the delay in draw^a_l of the arrears bill. It was clearly established during the enquiry that the applicant did delay the clearance of arrears bill of HC Partap Singh and that he demanded Rs.4000 from the latter who made a written complaint in the matter. Learned counsel for the respondents submits that there is no double jeopardy. The issue of doubtful integrity certificate is as per rule 87 of Delhi Police (Punishment & Appeal) Rules, 1980 and the relevant standing order. Whenever there is any DE pending against a police official involving moral turpitude or corruption, the names of such officials are included in the list of persons of doubtful integrity (DI list, for short).

5. We have heard both the learned counsel for the applicant as well as the respondents and have perused the available pleadings. We have given our careful consideration to the arguments advanced.

6. We find that the charge of delay in preparation of arrears bill of HC Partap Singh has been proved. As far as the charge of demanding bribe of Rs.4000 is concerned, there is no evidence on record to show that the applicant really demanded bribe because the sole witness is the complainant himself. It is the word of the complainant. It is not corroborated by any other witness. The complainant PW-6 himself has stated during cross examination that when the applicant demanded money

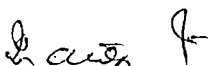
from him, it was lunch time and the applicant was all alone on his seat. No one was present in the branch. Considering this, it cannot be said that there is any evidence of demanding bribe. The other charge of delay in preparing bill of HBA has also been proved. The applicant was given enough opportunity to defend himself. He was provided with the relevant documents which were mentioned in the report of the EO and copies of the documents to be relied were given to the applicant at the time of service of summary of allegation. Copies of bill No.570/94 and 312/95 were also given to him at the same time. Though original bills were not given, copies of the documents requisitioned by the applicant vide his letter dated 11.9.95 were supplied to him which he had inspected except one paper which was not at all relevant from the allegation point of view. The applicant was duly given opportunity to see all the documents and the statements which were recorded in his presence. The applicant was also given reasonable opportunity to cross examine the witnesses also.

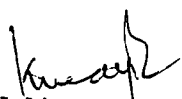
7. We, therefore, cannot find any fault with the orders of the disciplinary authority or the appellate authority. The applicant's contention that the certificate of doubtful integrity issued on 2.7.97 in respect of the applicant amounts to inflicting further punishment does not hold good. It is seen from the aforesaid certificate that the certificate of integrity is withheld for a period of 5 years or on finalisation of DE/Cr. case whichever is earlier because his name has been brought by DCP/Vigilance on the DI list w.e.f. 22.8.95 on the allegation that he demanded an amount of

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Rs.4000 as bribe. This cannot be said to amount to further punishment. This certificate is issued whenever DE is initiated involving corruption/moral turpitude etc. It is not because the applicant was imposed penalty by the DA but it is because a DE was initiated against him. This is as per standing order of the Delhi Police. It is also subject to review. Now that the DE has been completed the certificate will have to be reviewed. Therefore we cannot accept the plea of the applicant that it amounts to further punishment. However, we are of the considered view that ^ethere being no evidence regarding demanding of bribe the punishment awarded needs to be reviewed. We therefore direct the respondents to consider reviewing the penalty commensurate with only the proven charge of delay in preparing the arrears bill and the delay in releasing HBA and not the charge of demanding of bribe by the applicant.

8. The OA is disposed off accordingly. We do not order any costs.


(Smt. Shanta Shastri)
Member(A)


(Kuldip Singh)
Member(J)

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