

Central Administrative Tribunal
Principal Bench

O.A. No. 66 of 1998

New Delhi, dated this the 22nd February 1999

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. T.N. BHAT, MEMBER (J)

Ex. Const. Balkishan No.1238/DAP,
S/o Shri Mange Ram,
R/o House No. 353, Vill. & P.O. Tikri Kalan,
Delhi-110041. ... Applicant

(By Advocate: Shri Shankar Raju)

Versus

1. Union of India through
its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Sr. Addl. Commissioner of Police,
Armed Police & Training,
Police Headquarters, I.P. Estate,
New Delhi.
3. Dy. commissioner of Police,
3rd BN. D.A.P.,
Vikaspuri,
New Delhi-110018. ... Respondents

(By Advocate: Shri Anil Singhal
proxy for Shri Anoop Bagai)

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns Disciplinary Authority's order dated 16.5.97 (Ann. A-1) ordering removal from service and the Appellate Authority's order dated 6.10.97 (Ann. A-2) rejecting the appeal.

2. Applicant was proceeded against departmentally on the allegation that while detailed to monitor calls made on telephone No. 5599488 which was kept under observation at Telephone Exchange, Janakpuri, New Delhi to find out any clue about Under Trial Prisoner (UTP in

short) Vikram Pal who had escaped from lawful custody on 16.7.96 and after being properly briefed to keep the entire observation secret and not to disclose the telephone number of place of duty to any one, he contravened those directions and made frequent telephone calls and gave the telephone number and information about his place of duty to Const. Vijay Singh performing duty at New Delhi lock-up.

3. The E.O. in his findings held the charge against the applicant as fully proved.

4. A copy of the findings were provided to the applicant, for representation if any. Applicant submitted his reply. The Disciplinary Authority's order records that while examining the E.O.'s findings, it was felt to record the statement of Inspector of Police who was detailed to apprehend the escapee UTP Vikram Pal during the period and the DE file was returned to the E.O. for recording the statement of Inspector Verma as Court witness in the presence of defaulter (applicant) to enable him to cross-examine the Court witness. The E.O. recorded the statement of the Court witness in the applicant's presence and afforded opportunity to cross-examine the Court witness which was availed of by applicant. On the testimony of the Court witness as well as the facts and evidence which came up on record, the E.O. submitted his supplementary findings to the Disciplinary Authority concluding that the charge is fully proved. After

availing opportunity to make supplementary representation to the E.O. against the supplementary findings, the defaulter (applicant) submitted his reply to the same, wherein he requested for personal hearing which was given to him. After going through the E.O's findings as well as the representation against the supplementary findings of the E.O. submitted by applicant, and after giving him the personal hearing sought for, the Disciplinary Authority held that applicant had committed the gravest misconduct which rendered him unfit for retention in service like Delhi Police and accordingly ordered his removal from service vide impugned order dated 16.5.97, which was upheld in appeal vide impugned order dated 6.10.97.

4. We have heard applicant's counsel Shri Shankar Raju and Respondents' proxy counsel Shri Anil Singhal.

5. Shri Shankar Raju has pressed only two grounds namely (i) the statement of imputation of allegation is not the same for which applicant was charged and (ii) it is a case of no evidence as Constable Vijay Singh had stated in his evidence that applicant had not disclosed his place of duty and his telephone number to him (Vijay Singh).

6. In so far as the first ground is concerned the imputation of allegations in the Summary of Allegations it is stated thus:

.....made frequent telephone calls and gave information about his place of duty to Const. Const. Vijay Singh No. 4105/D.A.P. performing the duty at N.D. Lockup (Ann. Ann. A-8). 

While the charge is

"instead of that you did not maintain the secrecy of the job assigned to you and maintained regular communication to your colleagues at N.D. Lock up and even provided them with your telephone number....."

7. Manifestly there is no material difference in the Summary of Allegations and the charge, which is that despite clear instructions to keep the entire observations secret and not to disclose the telephone number and place of duty to any one, he contravened those instructions. Therefore, this ground fails.

8. As regards the second ground, we note that PW-3 Inspector M.M. Kesar has clearly stated in his testimony that applicant was fully briefed and instructed not to disclose the Telephone number and place of duty to any one and keep watch correctly but in contravention of those instructions he disclosed his place of duty, type of duty and also his telephone number to Const. Vijay Singh as well as Head Constable Madan Lal. Head Constable Madan Lal who is PW-4 has stated in his testimony that he had not received telephone calls from applicant but Const. Vijay Singh had received calls from applicant.

(5)

9. Respondents have contended that PW-2 Const. Vijay Singh was won over by applicant, and merely because he denied having received any phone calls from applicant, does not mean that it is a case of no evidence, particularly in the light of the testimony of PW-3 Inspector Keser and PW-4 Madan Lal.

10. There is merit in the contention of Respondents, and from the foregoing, it cannot be said that this is a case of no evidence to warrant judicial interference.

11. No other grounds have been pressed by applicant's counsel during hearing.

12. Under the circumstances, this O.A. is dismissed. No costs.

T.N. Bhat
22.2.99.

(T.N. Bhat)
Member (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)

/GK/