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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.726/98

New Delhi, this the 14th day of November, 2000

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Sub-Inspector Karan Singh
No.D-3188, S/O Sh. Ram Lal, aged
about 32 years, presently posted
at P.S.Darya Ganj, R/O D-320,
Gokul Puri, Delhi-94.
2. Constable Mahesh Kumar
No.506/DAP, S/O Sh. Deep Chand,
aged about 28 years, presently
posted at Ist Bn. DAP, R/O
Vill-Sadhrana, PO-Garhi
Herswaroop, Gurgaon, Haryana.

...Applicants.
(By Advocate: Sh. Sachin Chauhan, proxy for
Sh. Shanker 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, MSO
Building, New Delhi.
3. Addl. Commissioner of Police,
Northern Range, Police Head
Quarters, I.P.Estate, MSO
Building, New Delhi.
4. Dy.C.P. Central Dist., Darya Ganj, ND. Respondent.

(By Advocate: Ms. Neelam Singh)

O R D E R (ORAL)

By Hon'ble Shri S.A.T. Rizvi, Member (A):-

The applicants in this OA, a Sub-Inspector (Karan Singh) and Constable (Mahesh Kumar), have been charged for having miserably failed to prevent satta gambling in their jurisdiction. The allegation made is that satta was going on openly in their jurisdiction. The charge memo also mentions a specific event dated 16.11.95 as part of the charge. The allegation is that the Crime Branch of Delhi Police conducted a successful raid on the said date and apprehended 30 persons found indulging in

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satta gambling in a certain location in gali Jamunwali, Kalan Nahal, Chandni Mahal, Delhi. On the spot, the raid party found a large number of satta slips and a total amount of Rs.50,000/- was recovered from the accused persons. Based on this, a FIR No.293/95 dated 16.11.95 was registered in PS Chandni Mahal under Section 3/4/9/55 of the G.Act. In relation to the same event, it is also mentioned that satta was being operated by a notorious Sattabaz and BC bundle-A of PS Chandni Mahal, namely, Irfan, S/O Mohd. Islam who is stated to be already involved in 15 cases. In sum, the applicants are charged with gross misconduct and negligence in the discharge of official duties which rendered them liable for departmental action.

2. The learned counsel for the applicant has refuted the allegation that the applicants were in anyway responsible for the prevalence of satta in their jurisdiction. He has placed before us a detailed record of the raids conducted by the applicants in which varying amounts were recovered and several persons were arrested. The aforesaid record placed before us covers the period from 24.8.95 upto 16.11.95. During this period, the applicant-SI is supposed to have conducted as many as 22 raids. On the strength of this performance, the learned counsel for the applicants has contended that no case of negligence in the discharge of official duty is made out against the applicants and accordingly, it would be unjust to hold them guilty of gross misconduct. The learned counsel has also stated that the applicant-SI was placed Incharge of the concerned division only recently

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and his performance should be viewed in this context also.

3. The learned counsel for the respondents could find little support in favour of the respondents' case on the basis of the papers placed on record. She insisted, however, that just because the applicants had carried out a few raids yielding a few arrests and recovery of some amount during August-November, 95, it cannot be argued that satta was not prevalent in the jurisdiction of the applicants or that the applicants had performed their duties properly and effectively in this regard.

4. The applicants have impugned the order dated 11.7.96 passed by the disciplinary authority by which both the applicants have been awarded similar punishment of forfeiture of three years' approved service permanently entailing reduction in their pay from Rs.1880/- to Rs.1700/- PM in the case of SI and from Rs.1050/- to Rs.990/- PM in the case of other applicant-Mahesh Kumar respectively. The punishment order further states that their periods of suspension will be treated as not spent on duty. The appellate authority, however, was not convinced with the scale of punishment awarded to the applicants. He has, therefore, reduced the punishment in both cases to forfeiture of one year's approved service permanently. The appellate authority has, in his order dated 24.4.97, observed as follows:-

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"....However, it is not fully brought out whether this was going on with their connivance or under their protection. Moreover, the appellant Sub Inspr. joined Delhi Police in November, 91 and the appellant Const. joined in October, 90. Both of them are now entrants in the department and their professional skills are yet to be sharpened. However, during their short posting as Division Officer and Beat Officer respectively they registered 34 cases under Gambling Act & 15 cases of Local and Special Law which is not bad...."

5. It would seem from the views expressed by the appellate authority that it has not been brought out in clear enough terms that satta was going on with the active connivance of the applicants or under their protection. The appellate authority also found both the applicants to be new entrants in the department and held that their professional skills were yet to be sharpened. The performance of the applicants, to which we have referred in para 2 above, was also found by the appellate authority as not bad. With the help of the learned counsel for the applicants, we have perused the report of the enquiry officer also in parts. In the part of the said report in which the evidence has been discussed, it has been mentioned, in respect of applicant-SI, that "it is a fact that he detected 34 cases during his posting of 80 days in Division No.1. It is also a fact that it was his first chance to become a Division Officer after completing his DE course". We find that the EO has laboured excessively on the single event of recovery of Rs.50,000/- during the raid conducted by the Crime Branch on 16.11.95 in which 30 persons were arrested, to establish the guilt of the applicant. Of course, he has also referred to the recoveries of Rs.11,000/- made and

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the arrest of 40 persons carried out by the applicants on the same day, i.e., on 16.11.95. Both these recoveries were made from the den of the same BC. The enquiry officer has also referred to yet another raid carried out by the Crime Branch on 3.12.95 in the same Division in which 107 persons were arrested and a sum of Rs.58,362/- was recovered as stake money. We have noted, however, that this event does not form part of the charge levelled against the applicants, and cannot, therefore, be held out against them in this case. The enquiry officer has, almost in passing, referred to the allegation of the applicant-SI that the SHO and the Addl.SHO of the concerned Police Station did not conduct any raid although the prevalence of satta gambling was very much in their knowledge and the SHO was primarily responsible for the control of crime in his area. Having discussed the evidence in the manner referred to briefly as above, the enquiry officer reached the conclusion that the charge against both the applicants stood proved. However, the enquiry officer did not miss the opportunity to mention that a lenient view was required to be taken in the case of the applicant-SI in view of his first posting as a Division Officer.

6. We have, in particular, noted the fact that the Crime Branch carried out the aforesaid raid on 16.11.95 sometime after the applicants had carried out a similar raid in which the applicants had arrested 15 persons and had recovered a sum of Rs.11,000/- apx. The FIR of this case is numbered as 295/95, whereas the FIR of the raid conducted by the Crime Branch is numbered as 293/95 both registered at P.S. Chandni Mahal. As is evident from

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the evidence of PW-1 in the impugned proceedings, the applicants had conducted the raid at 6.50 PM and the case was registered at 8.00 PM on 16.11.95. The Crime Branch's raid should, therefore, have taken place pretty late in the evening that day. In this very connection, our attention has been drawn by the learned counsel for the applicants to a report dated 18.11.95 placed on record (pages 66-67 of the paper book). This report has been drawn up by the SHO of PS Chandni Mahal. The SHO has mentioned in this report that "after apprehending his workers, a team was sent to Silampur to nab the BC but he could not be located. His all workers were booked vide case FIR No.292/95 dated 16.11.95...." This refers to the raid conducted by the applicants. We have already mentioned above that the Crime Branch raid in question was conducted after the applicants had carried out their raid. From the SHO's above report, it is clear that after conducting the raid, the applicants went about in search of the BC in the Silampur area. It seems clear to us, therefore, that the Crime Branch's raid was conducted during the period the applicants were busy locating the BC in Silampur area. In the circumstances, it does not seem possible to hold the applicants guilty of not conducting the raid which was conducted by the Crime Branch the same evening/night.

7. As we listened to the arguments of the learned counsel for the applicants, we have been made aware of the fact that the prevalence of crime, such as satta gambling, can be controlled effectively only by team effort. By this, we mean that apart from the occasional

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raids carried out by the Crime Branch, the SHO/Ad11.SHO of the PS should also have been found actively supporting to the efforts made by the applicants. Since the applicants did raise this particular issue (which finds mention in the report of the EO), we are inclined to hold that given the support of the aforesaid senior officers, the applicants might well have performed much better.

8. In the background of the above discussion, we find no force in the respondents' case against the applicants. Consequently, the impugned orders dated 11.7.96 and 25.4.97 are hereby quashed and set aside. The applicants stand exonerated of all the charges framed against them in the disciplinary proceedings. They become entitled to all the consequential benefits ~~flowing~~ from the present order.

9. The OA is ^{allowed} ~~disposed of~~ as above without any order as to costs.

(ASHOK AGARWAL)
CHAIRMAN

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

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