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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 762/1998

New Delhi, this 14th day of September, 2000

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

(3)

Rishipal Singh  
VPO Duhai, PS Murad Nagar  
Dt. Ghaziabad, UP .. Applicant

(By Shri Shyam Babu, Advocate)

versus

Addl. Commissioner of Police  
Northern Range  
Police Hqrs., IP Estate  
New Delhi-110 002 .. Respondent

(By Shri George Paracken, Advocate)

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Shri Kuldip Singh ORDER(oral)

The applicant in this OA is challenging the order dated 23.2.1998 passed by the appellate authority by which punishment of forfeiture of 5 years approved service permanently entailing reduction in his pay by five stages from Rs.1330 to Rs.1180/- p.m. in time scale of pay for a period of five years thereby resulting in that he will not earn increment of pay during the period of reduction and on expiry of this period the reduction ~~it~~ will have the effect of postponing his increment of pay has been imposed on the applicant. He is before us seeking to set aside this punishment order.

2. Brief facts of the case are that a departmental enquiry was ordered against the applicant on the allegations that while he was posted at PS/IP Estate, picked up in the Maruti car of green colour one Shri Mohd., Shakil, an auto riksha driver, who was standing at Laxmi Nagar bus stop red light point at 11.30 AM on

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24.1.95. The occupants of the car took him to a park just behind IP Estate police station, which was allegedly being driven by co-defaulter of the applicant and they snatched his (Mohd. Shakil) wrist watch and Rs.1500 in cash. Shri Mohd. Shakil filed a complaint against the applicant and later on identified the applicant as the police officer. The enquiry officer after conducting the enquiry concluded in his findings that the charge against the applicant stood proved. Agreeing with the findings of the EO, the disciplinary authority imposed the punishment of dismissal from service on the applicant. Applicant preferred an appeal and after considering the same, the appellate authority modified the punishment as aforesaid.

(A)

3. We have heard the learned counsel for the parties. Learned counsel for the applicant has drawn our attention to the decision of the Hon'ble Supreme Court in the case of Nand Kishore Prasad Vs. State of Bihar (1978) 3 SCC 366 and submitted that it was only a case of suspicion and the charge against the applicant was not proved properly. In the above said case it has been held as under:

"Before dealing with the contentions canvassed, we may remind ourselves of the principles, in point, crystallised by judicial decisions. The first of these principles is that disciplinary proceedings before a domestic tribunal are of a quasi-judicial character; therefore, the minimum requirement of the rules of natural justice is that the tribunal should arrive at its conclusion on the basis of some evidence, i.e. evidential material which with some degree of definiteness points to the guilt of the delinquent in respect of the charge against him. Suspicion cannot be allowed to take the place of proof even in domestic enquiries. As pointed out by this court in UOI Vs. H.C. Goel AIR 1964 SC 364 the principle that in punishing the guilty scrupulous care must be

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taken to see that the innocents are not punished, applies as much to regular criminal trials as to disciplinary enquiries held under the statutory rules".

4. We further find that the appellate authority in the impugned order has stated that "though reluctantly I am constrained to arrive at a conclusion that the appellant has not fully been connected with misconduct, he can also not be left scot free because the needle of suspicion about harassing of the complainant for one reason or the other points towards him".

5. From the above, it is evident that the appellate authority found the applicant guilty merely on the basis of suspicion. Thus the decision of the Hon'ble Supreme Court in the case of Nand Kishore Prasad (supra) is squarely applicable to the present case.

6. In the facts and circumstances of the case as discussed above, we allow this OA. The impugned order dated 23.2.98 is quashed and set aside. Respondents are directed to restore the pay of the applicant with all consequential benefits. This shall be complied with within a period of two months from the date of receipt of a copy of this order. No costs.

*Shanta*  
(Smt. Shanta Shastry)  
Member(A)

*Kuldip*  
(Kuldip Singh)  
Member(J)

/gtv/