

Central Administrative Tribunal, Principal Bench

Original Application No. 765 of 1998

New Delhi, this the 10th day of August, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mrs. Shanta Shastri, Member (A)

1. H.C. Satya Prakash
Working as Head Constable
Police Station, Sarai Rohilla
Delhi

2. H.C. Ram Prakash
S/o Shri Hira Lal
R/o 24-C, Police Colony
Model Town, Delhi

Applicants

(By Advocate - Shri S.K. Gupta)

Versus

1. Govt. of N.C.T. of Delhi, through
Chief Secretary,
5, Sham Nath Marg
Delhi

2. Sr. Addl. Commissioner of Police
(AP & T)
Police Headquarters
I.P. Estate,
New Delhi

3. Deputy Commissioner of Police
IIIrd Battalion: D.A.P.
Delhi

4. Shri Arjun Singh, A.C.P. (ADJ)
Enquiry Officer
IIIrd Battalion: D.A.P.
Delhi

Respondents

(By Advocate - Shri Anil Singal, proxy for Ms. Jasmine Ahmed)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

In this case, both the applicants had been proceeded against departmentally on the allegation that an under-trial Jagoo, who was under their supervision alongwith two other constables, had escaped from their custody. Both the applicants were awarded punishment of forfeiture of one year's approved service permanently for a period of five

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years entailing reduction in pay. It was further ordered that they will not earn increments of pay during this period. A common enquiry was conducted in the case of applicants herein alongwith other two constables, namely, Shri Ram Singh and Shri Ravinder Kumar, who were also on duty alongwith applicants before us on the date on which the under-trial Jagoo escaped from the hospital. The disciplinary authority awarded punishment of removal from service in the case of constables S/Shri Ram Singh and Ravinder Kumar. They preferred an appeal before the Commissioner of Police, who by an order dated 11.6.98 (Annexure A-10 to the rejoinder), reduced the punishment of removal from service to that of reduction in their pay by two stages for a period of two years with cumulative effect.

2. During the course of arguments, learned counsel for the applicants submitted that since the duty of the applicants in the present case, was of supervisory nature and they were not having the physical control on the under-trial person Jagoo, they should have been inflicted upon lesser punishment than those two constables under whose custody the under-trial person Jagoo was.

3. After going through the pleadings on record, we notice that the two constables S/Shri Ram Singh and Ravinder Kumar, who had faced a common enquiry alongwith the applicants before us, had earlier been

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awarded the punishment of removal from service, however, in the revision order, the department took a lenient view and the penalty of removal from service was reduced to that of reduction of pay by two stages for a period of two years. Shri Gupta, learned counsel for the applicants has very fairly submitted that this case may be remanded back to the respondents for re-consideration of quantum of punishment.

4. Shri Anil Singal, learned proxy counsel for respondents has also been heard and when he was confronted with the order passed by revision authority, he could not assign any reason as to why lenient view should not be taken in the case of present applicants also who were not having physical control over the under-trial person Jagoo.

5. We also feel that this is a good case for remanding back to the respondents. Accordingly, we quash the impugned order dated 26.3.97 forfeiting one year's approved service in respect of applicants and remand back this case to respondents for re-consideration of quantum of punishment. We direct the respondents to take action in this regard after giving a personal hearing to the applicants and pass a reasoned, speaking and detailed order within a period of three months from the date of receipt of a copy of this order. No costs.

Shanta
(Mrs. Shanta Shastry)
Member (A)

Kuldip
(Kuldip Singh)
Member (J)

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