

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 813/1998

12

New Delhi this the 18th day of July, 2000

Hon'ble Smt.Lakshmi Swaminathan, Member(J)

Shri N.S.Verma
Inspector of Police
No. D-1/277,
Delhi Police, Delhi.

.. Applicant

(By Advocate Dr.J.C. Madan)

Versus

1.Govt.of NCT of Delhi,
through Chief Secretary,
5,Shannath Marg,
Delhi-54

2.Commissioner of Police,
Delhi Police Headquarters,
I.P.Estate, New Delhi-2

3.Addl.Commissioner of Police,
Northern Range,
Delhi Police Headquarters,
I.P.Estate, New Delhi.

4.Shri Sudhir Yadav, IPS,
Deputy Commissioner of Police,
North District, Delhi Police,
Police Station Civil Lines,
Delhi-54

.. Respondents

(By Advocate Sh.Vijay Pandita)

O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Member (J)

The applicant, who is working as Inspector with the Delhi Police is aggrieved by the order passed by the respondents dated 8.10.1997 by which the penalty of censure was imposed on him and the rejection of his appeal by order dated 11.2.1998 (Annexures A-1 and A-2).

81

2. In accordance with Rule 6(ii) of the Delhi Police (Punishment and Appeal) Rules, 1980 (hereinafter referred to as the 'Rules'), the applicant has been issued show cause notice as to why the order of penalty of censure should not be imposed against him by letter dated 9.8.97 for his failure to take prompt and legal action on a serious incident mentioned therein. In the reply filed by the applicant on 11.9.1997 to the show cause notice, he had submitted that he may also kindly be permitted to appear in person to apprise the facts of the episode in question. One of the main grounds taken by the applicant in the OA is that the respondents have passed the penalty order of censure without complying with the provisions of Rule 6(ii) of the Rules, namely, to give him chance of oral deposition, as requested by him, which is in accordance with the rules. After the order of penalty was issued on 8.10.1997, he had submitted his appeal on 27.10.1997, in this also he had referred to these facts and the provisions of Rule 6(ii) of the Rules, which according to him, has been violated by the respondents, which means that principles of natural justice have not been complied with in his case. He has stated in Paragraph 5 of the appeal that he has been punished without giving him an opportunity of hearing which is violative of the

13

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provisions of Rules and the principles of natural justice.

(14)

3. I have perused the reply and heard Shri Vijay Pandita, learned counsel for the respondents. Learned the counsel has submitted that the provisions of/Rule relied upon by the applicant are not mandatory. His contention is that the penalty of censure has been passed by the competent authority in compliance with the Rules and has prayed that the O.A. may be dismissed.

4. After careful perusal of the facts and law position as mentioned above, I find merit in the submissions made by Dr. Madan, learned counsel. Rule 6(ii) of the Rules provides as under:-

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6. Classification of punishments and authorities competent to award them.

(i) x x x

(ii) Punishment mentioned at Serial No. (viii) shall be called 'minor punishment' and may be awarded by the authorities specified in sub-section (i) of Section 21 of the Delhi Police Act, 1978 after serving a show cause notice giving reasonable time to the defaulter and considering his written reply as well as oral deposition, if any for which opportunity shall be afforded on request.

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15

5. The applicant had clearly requested in his reply to the show cause notice issued by the respondents that he may be permitted to appear in person to apprise the facts of the episode in detail to the competent authority i.e. to afford him an opportunity of oral deposition in addition to his written reply. In the present facts of this case, this provision of the Rules have been violated by the respondents. The contention of the respondents that even if the applicant had asked that he may be afforded an oral deposition, that could be rejected without any reasons by the competent authority, cannot be accepted, having regard to the provisions of the Rules. The Rule provides that after serving ^a show cause notice to the person, giving reasonable time to the defaulter and considering his reply as well as oral deposition, if any, for which opportunity shall be afforded on his request, an order of penalty may be passed. The rejection of the request made by the applicant in his reply, without any reasons cannot be accepted as either in compliance of the Rules or the procedure adopted by the respondents be termed as in compliance with the requirements of the principles of natural justice. The request of the applicant for being given an opportunity to make ^{an} oral deposition before

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16

the competent authority in his appeal has also been rejected by the respondents without giving any reasons.

6. In the facts and circumstances of the case the OA succeeds and is allowed. The impugned orders dated 8.10.1997 and 11.2.1998 are quashed and set aside.

No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

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