

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.NO.95/98

New Delhi, this the 21st day of November, 2000

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

Sh. Narender Singh, S/O Sh. Silak Ram,  
R/O D-I/144, Sector 16, Rohini, Delhi.

...Applicant.

(By Advocate: Sh. Shanker Raju)

VERSUS

1. Union of India, through  
Commissioner of Police (PHQ), MSO  
Building, IP Estate, New Delhi.
2. Addl. Commissioner of Police (Ops),  
Police Head Quarters, IP Estate,  
MSO Building, New Delhi.
3. Dy. Commissioner of Police, IGI  
Airport, New Delhi.
4. Dy. Commissioner of Police,  
Licensing (PHQ), MSO Building, IP  
Estate, New Delhi.

...Respondents.

(By Advocate: Sh. Anil Singhal, proxy counsel  
for Sh. Harvir Singh)

O R D E R (ORAL)

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

The applicant Head Constable was proceeded against departmentally on the charge that on 27/28.2.96 while posted in the Vigilance Cell at the IGI Airport, he accepted illegal gratification for getting two Afgan Nationals cleared through Customs without paying the due Custom duties. The further charge is that the amount of illegal gratification of 100 U.S. Dollars and Rs.1500/- has been recovered from the possession of the applicant by Sh. Sudesh Kumar, ACP and the same was deposited in Malkhana of PS, IGI Airport and was later returned to its rightful owner. He was ultimately dismissed by the disciplinary authority's order dated 7.8.97. The appeal preferred by the applicant was rejected by the appellate

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authority on 20.11.97. Aggrieved by these orders, the applicant has filed this OA.

2. The learned counsel for the applicant has raised several grounds questioning the propriety of the orders passed by the respondents. To begin with, he has alleged that there was a kind of animus in place between the vigilance staff posted at the IGI Airport including the applicant and Sh. Sudesh Kumar ACP. In support of this contention, he has placed on record a complaint letter dated 15.2.96 addressed to the Dy. Commissioner of Police. The fact of existence of animus has not been effectively rebutted by the respondents. The order dated 9.5.96 passed by the disciplinary authority initiating departmental action against the applicant clearly mentions that the aforesaid amount of illegal gratification was recovered from the possession of the applicant by the said Sh. Sudesh Kumar, ACP who obviously is also an important prosecution witness. On another occasion, before the disciplinary action got underway, the applicant had raised the issue of change of enquiry officer by his letter dated 12.6.96 repeating the request a little later. However, the request was turned down. The plea taken by the applicant in those applications was that the appointment as E.O. of Sh. K.K.Arora, ACP who too was posted at the Airport will prejudice his case inasmuch as Sh. Sudesh Kumar aforesaid and another Sh. Sita Ram, ACP both were also posted at the Airport and having equal status and in touch with each other the course of inquiry was likely to be influenced. In the circumstances, he could not feel confident about fair-play at the hands of the enquiry officer. We have also observed that in support of his

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case the applicant had made a detailed request for examining as many as 8 defence witnesses in his letter dated 16.10.96. In this letter, the applicant had clearly mentioned the nature of evidence which was likely to be led by these witnesses. The enquiry officer was not willing to concede and by his letter dated 3.11.96, he has, after allowing 4 defence witnesses, denied the production of the other witnesses on the ground that in his view those other witnesses were irrelevant.

3. Some other weaknesses have also been highlighted by the learned counsel. Amongst these, the non-examination of the interpreter who is supposed to have been the link between the applicant, the Afgan nationals who were allegedly got wrongly cleared and the police officials who made initial enquiry into this matter, has been raised as a contentin. No reason has been assigned for not examining this particular witness. The Afgan nationals themselves would have been the most important witnesses but they too have not been examined. The learned counsel for the applicant has contended that there is no material to show that these Afgan nationals were not available in the country at the time of enquiry. The learned counsel for the respondents also did not feel confident in this regard.

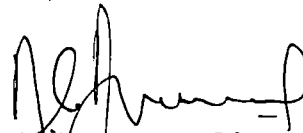
4. In the background of the above discussion, we have a strong feeling that the applicant did not get sufficient and adequate opportunity to examine material witnesses and to defend himself during the course of the departmental proceedings, and to this extent, we conclude that the requirements of natural justice have not been met in this


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case to a very substantial extent. Accordingly, the only option left before us<sup>2 is ✓</sup> to quash and set aside the impugned orders of dismissal dated 7.8.97 passed by the disciplinary authority as also the orders dated 20.11.97 passed by the appellate authority. The respondents will reinstate the applicant with immediate effect. We do not consider it necessary to pass any order about back-wages. However, it is clarified that the applicant<sup>will ✓</sup> be entitled to his wages effective from today upto the time of his actual reinstatement also.

5. The OA is accordingly disposed of as above. No costs.

  
(Ashok Agarwal)  
Chairman

  
(S.A.T. Rizvi)  
Member (A)

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