

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.1252/95

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T.A. No.

(12)

DATE OF DECISION 6-10-99

Narinder Kumar

....Petitioner

Shankar Raju

....Advocate for the
Petitioner(s)

VERSUS

Commissioner of Police and
Ors.

....Respondent

Sh. Anoop Bagai, learned counselAdvocate for
through proxy counsel Sh. Anil
Singhal.Respondents.

CORAM

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

The Hon'ble Shri S.P. Biswas, Member (A)

1. To be referred to the Reporter or not

2. Whether it needs to be circulated to other
Benches of the Tribunal? No.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1252/95

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New Delhi this the 6th day of October, 1999.

Hon'ble Smt. Lakshmi Swaminathan, Member(J)
Hon'ble Sh. S.P. Biswas, Member(A)

Sh. Narinder Kumar,
S/o Sh. Baldev Raj,
R/o H.No. B 13/C, Village
Gamri, P.O. Maujpur,
Delhi. Applicant

(through Sh. Shankar Raju, Advocate)

versus

1. Commissioner of Police Delhi
Delhi Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi.
2. Addl. Commissioner of Police(AP&T),
Delhi Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi.
3. Deputy Commissioner of Police,
3rd Bn. D.A.P.,
New Police Lines,
Kingsway Camp,
Delhi. Respondents

(through Sh. Anil Singhal, proxy counsel for
Sh. Anoop Bagai, Advocate)

ORDER

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

Applicant has filed this application being aggrieved by the punishment orders passed by the respondents, namely, the disciplinary authority's order dated 08.09.93 removing him from service as Constable from Delhi Police, and the rejection of his appeal by the Appellate Authority by order dated 16.05.94.

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2. The learned counsel for the applicant has challenged the validity of the aforesaid punishment orders mainly on two grounds. The first ground is that the applicant had submitted an application dated 27.05.92 to the Inquiry Officer who was conducting the disciplinary proceedings for supply of copies of the statements of the PWs which were recorded during the course of the Preliminary Enquiry ('PE' for short), copy of the finding of the report of Shri R.K. Sharma, ACP/III Bn. DAP and copy of the complaint made against him by ACP/III Bn. DAP and Sh. B.S. Sobti, Inspector/III Bn. DAP Delhi.

3. The second ground taken by Shri Shankar Raju, learned counsel for the applicant is that the Inquiry Officer in his report has brushed aside the defence statement in which he has stated that the points taken by him are baseless, without giving any reasons. Further, he has also submitted that the Inquiry Officer's findings are not based on any evidence that was adduced before him by way of examination and cross examination of the witnesses and other documents and is, therefore, contrary to Rule 16 (ix) of Delhi Police (Punishment & Appeal) Rules, 1980 (for short "the 1980 Rules"). The learned counsel for the applicant relies on the decision of the Principal Bench of the Tribunal in Jasmer Singh Vs. Delhi Administration & Anr. (OA-2046/93) decided on 21.07.99.

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4. We have seen the reply filed by the respondents and heard Sh. Anil Singhal, learned proxy counsel for respondents. The learned proxy counsel has produced the relevant D.E. file and copies of the relevant documents which are placed on record.

5. On the first issue raised by the applicant's counsel, he has drawn our attention to the order sheet maintained by the Inquiry Officer during the departmental proceedings at Serial No. 15 recorded on 10.06.92. His contention is that it has been clearly stated that copies of the documents referred to in applicant's application dated 27.05.92 have been given to him and his signature has also been obtained on that date. He, therefore, contends that the applicant cannot state that the relevant documents referred to in his application have not been given to him.

6. On the second ground raised by the applicant's counsel, Shri Anil Singhal, learned proxy counsel for the respondents contends that the impugned disciplinary authority's order is a detailed order wherein he discusses the evidence and, therefore, it cannot be said that it is a non-speaking order.

7. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

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8. In the order sheet of 10.6.1992, the Inquiry Officer has recorded as follows:

"Defaulter & PW Const. Rajesh Kr., 1987/SD present. Defaulter had requested for supply of copies vide his application dt. 27.5.92. Copies given today. His defence counsel Balesh Dev Raj is also present. PW-2 Ct. Rajesh Kumar, 1987/SD examined. Next date fixed for 17.6.92".

(Emphasis added)

9. We note that the applicant has also signed the proceedings held on 10.6.1992. Shri Shankar Raju, learned counsel, has submitted that all facts recorded by the Inquiry Officer on 10.6.1992, as above, are correct excepting the sentence "Copies given today" which he states is a lie. He has very vehemently submitted that no copies of the documents which the applicant had called for in his letter dated 27.5.1992, were given to the applicant against his signature as stated by the respondents in their reply. He further submits that although this is the usual practice, the respondents have not followed it in the present case. After perusing the records, we are unable to agree with the contentions of the learned counsel for the applicant that copies of the documents requested by the applicant had not been given to him by the Inquiry Officer on 10.6.1992. It is also relevant to note that the applicant himself admits that he did not ask for the copies of the documents on the next date fixed for hearing before the Inquiry Officer, i.e. on 17.6.1992. In fact, the learned counsel for the applicant has submitted that the applicant raised this issue only in the appeal submitted by him after the impugned order was passed by the disciplinary authority on 8.9.1993. These facts will also show that the contention of the

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applicant that he had not been given the copies of the documents is an after thought and no reliance can be placed on it, especially when the departmental records show otherwise. We have no reason to believe the version given by the applicant that the Inquiry Officer has stated a lie that documents mentioned in his application have been given to the applicant and discount the statement recorded by him in the departmental proceedings on 10.6.1992. There is also no doubt that the applicant has signed the proceedings on that date. For these reasons, the first ground taken by Shri Shankar Raju, learned counsel, is baseless and it is accordingly rejected.

10. We also find no merit in the second ground urged by the learned counsel for the applicant. He has contended that the Inquiry Officer in his report dated 23.7.1992, copy placed on record, had not dealt with the evidence and charges levelled against the applicant in terms of Rule 16(ix) of the 1980 Rules. However, on perusal of the disciplinary authority's order dated 8.9.1993, we find that the officer has indeed discussed the evidence and examined the representations submitted by the applicant and other relevant documents. He has referred to the evidence of Shri P.S. Bhushan, ACP, which has been recorded earlier in the departmental proceedings by the Inquiry Officer. This witness has stated that the applicant was providing extra facilities of eatables and meetings with the relatives of the undertrial Harjeet Singh S/o Kehar Singh and the ACP has stated that he saw the applicant receiving Rs.200/- as illegal gratification

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from the relatives of the undertrial. The said amount was subsequently recovered from the warrant papers of the undertrial which the applicant was carrying in his hand. This case is, therefore, not a case of no evidence. Besides, the disciplinary authority has looked into the evidence and come to the conclusion that the applicant should be removed from service because of the mal-practice and corruption which he states has not only tarnished the image of the Delhi Police, but is immoral in nature. The applicant's counsel has relied on the judgement of the Tribunal in Jasmer Singh (supra). In that case, while the Tribunal came to the conclusion after seeing the Inquiry Officer's report, that there was no discussion excepting a one line sentence stating that he has gone through the evidence, it was also further noted that "the disciplinary authority has also not improved the situation except agreeing with the findings of the Inquiry Officer". That is not the factual situation in the present case. It is clear from the disciplinary authority's order that he had cured whatever defect was there in the Inquiry Officer's report in not fully assessing the evidence presented before him. Therefore, the judgement in Jasmer Singh's case (supra) relied upon by the applicant will not assist him in the present facts and circumstances of the case. On the other hand, in the present case, the disciplinary authority's order is a detailed and speaking order which is based on the evidence and other documents placed before him and there is no defect in the order on this ground.

11. It is settled law that the Courts/Tribunal should not interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. In exercising the power of judicial review, it does not extend to the examination of the correctness or reasonableness of the decision taken by the competent authority. (**Union of India vs. Upendra Singh** (JT 1994(1) SC 658)). In the present case, we find that the applicant has been given adequate opportunities to defend his case. We have also considered the other grounds taken on behalf of the applicant in the O.A., but find no merit in the same, to warrant any interference in the matter.

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12. In the result, for the reasons given above, O.A. fails and it is dismissed. No order as to costs.


(S.P. Biswas)
Member (A)

1 SRD


(Smt. Lakshmi Swaminathan)
Member (J)