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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1299/1995

New Delhi this the 07th day of March, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

A.S.I Jai Parkash No.2000/D
S/o Shri Patram Singh
R/o 513, Gali No.8, Moonga Nagar,
Near Chand Bagh, Bhajanpura,
Delhi-110096.
(None for the applicant.)

... Applicant

-Versus-

1. Union of India/Lt.Governor of N.C.T.Delhi
(Through Commissioner of Police)
Police Headquarters
M.S.O.Building, I.P.Estate
New Delhi.
2. Additional Commissioner of Police
(New Delhi Range),
Police Headquarters,
MSO Building, I.P.Estate,
New Delhi.

... Respondents

(H.C. Prem Singh, Deptt. Representative)

O R D E R (ORAL)

Shri V.K.Majotra, AM :-

Applicant and his Advocate are absent. We have perused the record and we proceed to dispose of the OA in their absence on merits as per Rule 15 of the Central Administrative Tribunal (Procedure) Rules 1987.

2. This application is made against:-

- (i). order dated 14.3.1994, Annexure A-1 whereby the applicant has been awarded a major punishment in a deparatmental enquiry of forfeiture of permanent approved service for 5 years alongwith reduction of pay and withholding of increments and the period of

suspension has been treated as not spent on duty.

- (ii). order dated 6.07.1994, Annexure A-2 whereby the appeal preferred against the order of punishment has been rejected.
- (iii). findings of the enquiry officer holding the applicant guilty of the charge vide Annexure A-3.
- (iv). order dated 24.6.1993, Annexure A-4 whereby the applicant was placed under suspension.

3. The applicant joined Delhi Police as Constable on 7.9.1970. He was promoted as Head Constable in 1977 and thereafter as ASI in 1987. While posted as ASI in Seelampur Police Station, a complaint was made by M.L.Verma and Tarachand against the applicant that he had forcibly taken Tarachand and his father M.L.Verma to Police Station Shahdara with the intention to grab some money from them. He had also severely beaten up Tarachand. It was alleged that he did not apprehend Tarachand and M.L.Verma even though he had recovered stolen articles from their possession. He had done so with some mala fide intention and ulterior motive. A D.E. was initiated against the applicant vide order dated 20.7.1993. The enquiry officer after examining 8 PWs and 12 DWs found the allegations levelled against the applicant as partially proved. A copy of the findings was served upon the applicant on 23.2.1994 who submitted his reply in response to the said findings on 7.3.1994. The applicant was heard in OR by the disciplinary authority on 8.3.1994. The applicant has averred that he was not supplied a copy of the complaint and

preliminary enquiry report; that whereas he had submitted a list of 25 DWs only 12 of them were allowed to be examined; that whereas the first enquiry against him has been ordered to be filed, the second enquiry was ordered which is illegal; that prior approval of the Additional Commissioner of Police had not been taken. The applicant has stated that the order of the disciplinary ^{authority} is illegal and non speaking and also in violation of the Section 22 of the Delhi Police Act, 1978 and Rule 8-D (ii) of the Delhi Police (Punishment & Appeal) Rules, 1980 under which multiple punishments are prohibited. The applicant has also pointed out that the points raised by him before the appellate authority have not been considered. He has sought quashing of the impugned orders at Annexures A-1 and A-2 with consequential benefits. He has also sought setting aside of the findings at Annexure A-3 and order of suspension at Annexure A-4. Respondents in their counter have averred that the applicant was heard in OR on 8.3.1994 by the disciplinary authority, who in view of the serious nature of allegations awarded the impugned punishments.

4. According to the respondents, the appellate authority had considered all the points raised by the applicant in his appeal and passed a very reasoned order. They have maintained that approval of the Additional Commissioner of Police is not necessary and the punishing authority is competent to initiate the ^{departmental} enquiry. They have stated that whereas the applicant had

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submitted a list of 24 DWs to the enquiry officer, later on he had submitted a list of only 13 DWs who were examined by the enquiry officer. According to the respondents, the applicant was afforded full opportunity of defence and all aspects of the prescribed procedure were followed in true spirit.

5. The disciplinary authority while passing order at Annexure A-1 has stated that he had carefully gone through the findings submitted by the enquiry officer, reply submitted by the applicant and other relevant record available on the D.E. file. He had also heard the applicant in Orderly Room on 8.3.1994 who had nothing more to say except what he had already stated in his written reply. According to the disciplinary authority the allegations levelled against the applicant were very serious in nature and it had been proved that the applicant had given severe beating to the complainant and his son Tarachand which could not be taken lightly.

6. We agree with the respondents that the punishing authority is competent to initiate a D.E. against the applicant and as per relevant rules, it is not necessary to obtain prior approval of the Additional Commissioner of Police to initiate an enquiry. The applicant had pointed out in his appeal that he had not been provided certain documents particularly the preliminary enquiry report and that once the allegations against him were found to be untrue by an Inspector, the same charges should not

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have been enquired into once again. The appellate authority has found that PWs 1 to 8 had stated that Madan Lal Verma and Tarachand were brought to the Police Station on 22/23-6-1993 and that Tarachand was beaten up by the applicant. PWs had also mentioned about the applicant's taking money from M.L.Verma for the release of both of them. They have also mentioned about the applicant visiting M.L.Verma's house again. The appellate authority did not see anything wrong in initiation of fresh enquiry in a matter where the previous enquiry report mentioned that the charges have not been proved. It was also found by the appellate authority that all the documents on which the prosecution had relied upon were supplied to the applicant and that the applicant is not entitled to a copy of the preliminary enquiry report. while concluding, the appellate authority has stated:-

"From the above it is clear that the charges against the appellant are sufficiently proved. I feel that as a public servant and a police officer the appellant has no right to physically assault anyone or detain any member of the public illegally. In as much as the charges against the appellant are serious, I think the punishment imposed by the punishing authority is not harsh. The appeal is rejected."

7. We also hold on examining the material before us that all relevant documents which were relied upon by the respondents were supplied to the applicant. It was not necessary to examine all the 24 witnesses when he had himself given a list of 12 witnesses, the second time. The applicant was

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provided enough opportunity of hearing by the disciplinary authority in the OR. As to the issue about what kind of punishment should be awarded to the applicant under Section 22 of the Delhi Police Act, 1978 as well as Rule 8-D(ii) of the Delhi Police (Punishment & Appeal) Rules, 1980, the controversy has been adjudicated upon by this Tribunal in their order dated 18.5.1999 in OA No.2225/93- A.S.I.Chander Pal vs. Delhi Administration & anr.. The Full Bench after considering all pros and cons had decided the controversy as follows:-

"The penalty of forfeiture of 'X' years approved service permanently entailing reduction in pay by 'X' stages for a period of X years with the condition that the delinquent police official would not earn increment/increments during the period of reduction and on the expiry of that period the reduction would have the effect of postponing the future increments, is in accordance with law."


In this view of the matter, the multiplicity of the punishment orders cannot be faulted with.

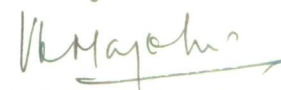
8. We find that whereas the orders of the disciplinary authority are sufficiently detailed, the orders of the appellate authority are well reasoned. All the points raised by the applicant have been fully dealt with by the appellate authority. It is an established law that whereas in a criminal case strict standards have to be followed by courts for punishing the delinquent, in disciplinary proceedings preponderance of probabilities and not strict norms form the basis for bringing home the guilt. In the present case before us, we find that the respondents

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have been fully successful in proving the guilt of the applicant keeping in view the rules as well as the norms of proof.

9. In the light of the above discussion, we do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member(A)

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