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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

D.A. No. 1484/95

Dated 18-12-1995

Hon'ble Shri N.V.Krishnan, Acting Chairman  
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Constable Sri Niwas  
S/o Shri Bishamber Sahai,  
R/O H-329, New Police Lines,  
Kingsway Camp. Delhi

... Applicant

(By Advocate Shri Shankar Raju)

Vs.

1. Union of India/Lt. Governor, NCTD.,  
through-Commissioner of Police,  
Police Headquarters, I.P. Estate,  
New Delhi-2.
2. Additional Commissioner of Police,  
Southern Range,  
Police Headquarters,  
I.P. Estate, New Delhi-2.

... Respondents

(By Advocate Shri Amresh Mathur  
through proxy counsel Shri S.K. Gupta)

O R D E R (ORAL)

(Hon'ble Shri N.V.Krishnan, Acting Chairman)

The applicant is a Constable in Delhi Police. He  
has been punished by the impugned Annexure-A1 order  
of the Disciplinary Authority dated 17-3-1994.  
Relevant para of the order reads as follows:-

" The charges against Const. Sri Niwas  
No. 1705/SW could not be proved for want of  
adequate evidence. The acts that were brought  
out on the file, the driver holding the  
money while the constable did not take it  
and that the truck driver sped away on seeing  
the checking team, could be viewed either  
way. Const. Sri Niwas No. 1705/SW is hereby  
awarded the punishment of with-holding of  
an increment for a period of two years and  
the withholding shall have the effect of  
postponing future increments. However, his  
suspension period w.e.f. 12.3.93 to the  
previous date of issue of this order will be  
treated as Leave of Kind due."

HC Parkash Chamoli No. 92/SW, Const. Babu  
Khan, 857/SW and Const. Sri Niwas No. 1705/SW  
are hereby reinstated in service with immediate  
effect."

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Appeal has been filed which has been disposed of by the Annexure A-2 order dated 5-6-1995.

2. Hence this OA has been filed to challenge the impugned order. Reply has been filed by the respondents contesting the claim.

3. When the matter came up today for possible final hearing, Learned counsel for the applicant drew our attention to the above extract of the order. He points out that, admittedly, the charges made against the applicant could not be proved for want of adequate evidence. Yet he has been punished on totally different grounds which is illegal and unjustified.

4. This point was raised in the appeal filed by applicant (Annexure A-11). This has been taken as the first ground in the appeal.

5. It is pointed out that appellate authority has not considered this ground at all in the Annexure A-1 order. He, therefore, requests that the matter may be remanded back to the Appellate Authority to pass a speaking order on this ground.

6. Learned counsel for the respondents has no objection to dispose of the OA with the above directions.

7. We are satisfied that the appellate authority has failed to consider ground No.1 of the appeal in which this issue has been squarely raised. Accordingly,

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the order of the appellate authority(i.e. respondent No.2 ) is quashed. He is directed to re-consider the appeal and pass a speaking order, with particular reference to ground No.1 raised by the applicant, within two months from the date of receipt of a copy of this order. We make it clear that we have not considered any other ground raised in the O.A and the applicant is at liberty to raise them in future if he is aggrieved by the appellate authority's order.

8. O.A. is disposed of as above.

*Lakshmi Swaminathan*  
(Smt.Lakshmi Swaminathan)

Member (J)

*N.V. Krishnan*  
(N.V.Krishnan)

Acting Chairman

sk.