

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

B.A. No. 1484/95

Dated 18-12-1995 (5)

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.

... Respondent

(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-A order of the Disciplinary Authority dated 17-3-1994.

Relevant para of the order reads as follows:-

" The charges against Const.Siri 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.Siri 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.Siri Niwas No.1705/SW are hereby reinstated in service with immediate effect."

(6)

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 respondent 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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(7)

the order of the appellate authority (i.e. respondent No.2) is quashed. We are 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 OA 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 / N.V.Krishnan
(Smt. Lakshmi Swaminathan) (N.V. Krishnan)

Member (J)

Acting Chairman

sk.