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Central Administrative Tribunal
Principal Bench

O.A. No. 165 of 1995

New Delhi, dated this the 8th **December, 1999.**

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

Shri Jagdish Singh (2040/SW),
S/o Shri Ram Kishan,
R/o Vill. Jafarpur Kalan, Delhi
Working in R.T.C., P.T.S.,
Jharoda Kalan,
New Delhi.

... Applicant

(By Advocate: Shri Shyam Babu)

Versus

1. Addl. Commissioner of Police (Operations),
Police Headquarters, I.P. Estate,
New Delhi-110002.

2. Dy. Commissioner of Police,
Indira Gandhi International Airport,
New Delhi.

... Respondents

(By Advocate: Shri Rajinder Pandita)

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns Disciplinary Authority's order dated 29.5.91 (Annexure A) and the Appellate Authority's order dated 20.9.93 (Annexure B) and claims all consequential benefits.

2. Applicant was proceeded against departmentally vide order dated 17.3.92 on the allegation that while posted at P.S. Naraina, he had arrested Shri Chattar Singh and his son during the course of a criminal case. It was alleged that the arrest was malicious and actuated by malafides and Rs.20,000/- was demanded and ultimately Rs.4,000/- was accepted as illegal gratification in the process from Smt. Omwati W/o Shri Chattar Singh.

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3. A show cause notice of censure was issued to applicant on 28.1.91. The reply filed by him was considered and he was given a personal hearing, but according to Respondents, applicant failed to disprove the allegation, upon which punishment of censure was made absolute vide impugned order dated 29.5.91.

4. Thereupon applicant preferred an appeal against the order of censure. He was called in the orderly room and was heard in person, after which the Appellate Authority set aside the order of censure and passed the order for fresh departmental enquiry against applicant in accordance with the provisions of Rule 25(d) Delhi Police (P&A) Rules.

5. Pursuant to the D.E., applicant was charged that while posted at P.S. Naraina, he investigated a case bearing FIR No. 196/90 u/s 342/365/384 IPC, P.S. Naraina in a partial and prejudiced manner and arrested one Shri Chattar Singh and his son, which was malicious and actuated with malafide. He demanded Rs.20,000/- and ultimately accepted Rs. 4,000/- as illegal gratification from Mrs. Omwati, wife of Shri Chattar Singh.

6. The I.O. in his finding dated 18.11.92 (Annexure P) held the charge to have been established. The Appellate Authority by the impugned order dated 20.9.93 (Annexure B)

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noted applicant's defence that in so far as the registration/investigation of the criminal case was concerned, there was no adverse objections/remarks/directions from either the senior police officer or the concerned Court, which according to applicant proved that the investigation was not prejudiced and was impartial. The appellate authority observed that he was not satisfied with this plea, because this was a case where the FIR itself was falsely registered by Ram Singh, uncle of Chatter Singh with applicant's connivance to pressurise Shri Chatter Singh over a house property dispute which was essentially of Civil nature. While that part of the charge which related to acceptance of bribe had not been conclusively established, the appellate authority concluded that it was probable that applicant had connived with the said Ram Singh with whom Chatter Singh had a property dispute to pressurise Chatter Singh in regard to the property. Accordingly by the impugned order dated 20.9.93 the appellate authority imposed the penalty of forfeiture of three years approved service, and after reduction of pay applicant would earn increments on reduced pay.

7. We have heard applicant's counsel Shri Shyam Babu and respondents' counsel Shri Rajinder Pandita. We have also perused the materials on record.

8. The main ground advanced by Shri Shyam Babu is that this is a case of no evidence, and hence the impugned orders are fit to be struck down.

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9. We have carefully considered this contention.

10. As observed by the Delhi High Court in its order dated 15.11.90 (Annexure-F) quashing the FIR the dispute between Ram Singh and Shri Chatter Singh was essentially of a civil nature, involving house property. As pointed out by the Enquiry Officer in his findings (Annexure-P) it is generally the practice in civil disputes (particularly one such as this which was pending in Court and where a Court stay order was also operating) for the police to guide the parties to the dispute to approach the court for appropriate orders, if something untowards happened meanwhile. In the instant case this wholesome practice was not followed. At the instance of Shri Ram Singh FIR No. 196/90 u/s 342/365/384 IPC etc. was registered in P.A. Maraina. Applicant has nowhere disclaimed knowledge of the pendency of the civil dispute between Shri Ram Singh and Shri Chatter Singh. Despite that he along with other policemen proceeded to the house of Shri Chatter Singh on the night of 27.8.90 arrested him and his son and brought them to the police station where they were locked up.

11. Viewed in this light it cannot be said that applicant's conduct in investigating FIR No. 196/90 and arresting Shri Chatter Singh and his sons was completely impartial and unprejudiced so as to deserve complete exculpation from the charge. In this connection it is important to remember that unlike in a criminal case, it is sufficient in a domestic enquiry if the preponderance of probability points to the misconduct of the delinquent.

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12. It is true that the portion of the charge relating to demand and acceptance of bribe was not established. However the fact that applicant along with other police personnel proceeded to the house of Chatter Singh on the night of 27.6.90 and arrested him and his sons, on the basis of FIR No. 196/90 u/s 342/365/384 IPC etc. instituted by Ram Singh, despite knowing that a property dispute subsisted between Ram Singh and Chatter Singh which was in seizon of a court and a court stay order was operating, does establish on the basis of the preponderance of probability, that portion of the charge ^{that applicant is effecting} ~~relating to~~ the arrest of Shri Chatter Singh ^{was} actuated by prejudicial and mala fide motive.

13. Under the circumstance, we find no good reasons to intervene in this OA. It is dismissed. No costs.

(KULDIP SINGH)
MEMBER(J)

(S. R. ADIGE)
VICE CHAIRMAN (A).

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