

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

J.A. No. 1694/95

Date of decision 12.9.95

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

Shri Har Swaroop,
resident of 1/2866,
Ram Nagar, Loni Road, Shahdara,
Delhi.

... Applicant

(By Advocate Shri Shyam Babu)

Versus

1. Commissioner of Police, Delhi
Police Headquarters, I.P.Estate,
New Delhi.
2. Addl. Commissioner of Police (S&T),
Police Headquarters, I.P.Estate,
New Delhi.
3. Deputy Commissioner of Police,
(Security)
Police Headquarters, I.P.Estate,
New Delhi.

... Respondents

O R D E R (ORAL)

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

We have heard him. This is a case where disciplinary proceedings were initiated against the applicant on a charge of bribery and the penalty of forfeiture of three years approved service permanently was imposed on 25.6.94 (Annexure A). That order has been upheld by the Appellate Authority vide order dated 29.12.1994 (Annexure-B). When the applicant filed revision against these orders before the Commissioner of Police who is the competent authority, that authority has issued the Annexure-C notice dated 30-8-95 requiring the applicant to show cause why the penalty imposed upon him may not be enhanced to dismissal from service.

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2. This application has been filed impugning the orders of the Disciplinary authority, the appellate authority and the show cause notice.

3. We have heard the learned counsel for the applicant about the maintainability of this D.A. in respect of the Annexure-C show cause notice. He states that in terms of Rule 25-A which has been inserted in Delhi Police (Punishment and Appeal) Rules, 1980 by an amendment dated 29-6-94(Annexure-K), the power has been given to revising authority to disagree with disciplinary/appellate authority and enhance the punishment after giving the employee reasonable opportunity of making representation against the enhanced penalty proposed to be imposed. Learned counsel for the applicant contends that Annexure-C notice does not satisfy this legal requirements.

4. We have gone through the notice. Prima facie, we do not find any merit to challenge this notice on that ground. Para 2 of that order reads as follows:-

" I have gone through the relevant record on the D.A. file. The charge of accepting illegal gratification is very grave and warrants a major punishment. The award of the penalty of forfeiture of 'his three years' approved service permanently is not commensurate with the gravity of misconduct. On the testimony of the ACID-II, Mrs Mary S. Philips(PW.2) alone, the charge is proved. Such official does not deserve to be retained in the force. I, therefore, propose to enhance the punishment under the powers vested in me under rule 25(a) of Delhi Police(Punishment and Appeal amendment) Rules, 1994 and intend to dismiss him from the force."

The very fact that the revising authority wants to enhance the punishment is a clear expression of his disagreement with the orders passed by the subordinate authorities. This para also shows that the revising authority was satisfied that the charge

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was proved and that, therefore, higher punishment had to be given. In the circumstances, we are of the view, that it is not for us to interfere in these proceedings at this stage. The applicant is left free to give his reply to the show cause notice and seek remedy only after the proceedings have been finally concluded.

5. In the circumstances, learned counsel for the applicant seeks permission to withdraw the DA at present, preserving his liberty to challenge the orders, in the disciplinary proceedings at the appropriate time. Permission is granted on the above terms. DA is, therefore, dismissed as withdrawn.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Member (J)

N.V. Krishnan
(N.V. Krishnan)
129.85
12/8/95

Acting Chairman

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