

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1805 of 1995

New Delhi, this 29th day of March, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Smt. Shanta Shastry, Member(A)

Inspector Shakti Singh  
(D-1/231)  
R/o H.No.240, Sector-III  
R.K.Puram  
New Delhi.

...Applicant

(By Shri Shyam Babu, Advocate - not present)  
(Shri Bhaskar Bhardwaj, proxy is present)  
(Applicant is also present)

versus

1 Commissioner of Police  
Police Headquarters  
I.P. Estate, New Delhi.

2. Sr. Additional Commissioner of Police  
(New Joint Commissioner of Police)  
(A.P), Police Headquarters  
I.P. Estate,  
New Delhi

...Respondents

(By Smt. Meera Chhibber, Advocate - not present)  
(Shri D.S.Jagotra, proxy is present)  
(Shri Subhash Chand, departmental representative is also present.)

Order (Oral)

By Reddy, J.

The .applicant appears in person.  
Departmental representative SI Jarnail Singh is present. None of the counsel on either side are however present. Proxy counsel for the parties are present only to mention that the advocates are abstaining from courts. Since this is a matter of 1995, we proceeded to dispose of the same on merits.

2. Written arguments on behalf of the applicant are however submitted by the applicant

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while the case is taken up for hearing.

3. The applicant challenges the order of punishment of forfeiture of five years' service with proportionate reduction in pay for a period of five years and that increments will not be earned during the period of reduction and that on the expiry of the period the reduction will have effect of postponing future increments of pay.

4. The applicant is Inspector of Police in Delhi Police. He was served with the summary of allegations, alleging that during the month of March 1992 when he was posted as Incharge/Anti-Auto Theft Squad, North East District Delhi, one Darshan Lal was picked up by HC Mahipal Singh, Ct. Anand Parkash, Ct. Sunil Kumar and Ct. Neeraj Kumar, on the night between 10/11-3/1992 from his residence and was confined/interrogated and tortured at various places including AATS office. On 16.3.1992 Darshan Lal was admitted at Mohan Nursing Home, Zaffrabad, Delhi, with injuries. His father and other relatives were not allowed to see the injured person. On 17.3.1992 Darshan Lal was shifted to JPN Hospital where it was observed that Darshan Lal had blunt injuries. Later on Darshan Lal succumbed to the injuries on 17.3.1992. An FIR in the P.S. Welcome was registered alleging that the deceased remained in

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the custody at AATS from 10.3.1992 to 16.3.1992 which showed that the applicant had failed to inform his superiors about the details of Darshan Lal and that he had failed to take proper action in the discharge of his duties.

5. On the above allegation, a departmental enquiry had been initiated against the applicant. The disciplinary authority considering the evidence on record, the findings of enquiry officer and the explanation given by the applicant to the enquiry officer's report and other material on record and after hearing the applicant, found that the charge stood proved and imposed the punishment as stated supra. The appeal filed by the applicant was also rejected by order dated 17.7.1995.

6. We have perused the pleadings of the case. Several points have been urged by the applicant in the OA as well as in the written arguments. Firstly, it is urged that the charge with regard to lack of supervision has not been proved against the applicant and that the enquiry officer's report was based on the surmises and conjectures. The deceased Darshan Lal was under the custody of the staff of AATS without the knowledge of the applicant and that the enquiry officer ignored the evidence that the applicant had marked <sup>the</sup> absent<sup>l.</sup> of the accused constables which



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was exhibit PW4/A and that he also ignored the statement of PW3 where he said that he could not see the applicant between 11.3.1992 to 16.3.1992. But it has to be noted that the enquiry officer has examined as many as five witnesses on the side of the prosecution. The charge against the applicant was that the deceased Darshan Lal was confined and tortured at various places in AATS between 10.3.1992 to 16.3.1992 after the deceased was picked up by the HC and the constables from his residence 10.3.1992. The deceased was admitted in the hospital only on 16.3.1992 and ultimately he succumbed to the injuries on 17.3.1992. The above allegations were established. The essence of the charge was gross negligence and carelessness on the part of the applicant in discharge of his official duties. The enquiry officer examined the several PWs and relied upon the evidence of PW3 who said that he was informed that the deceased was picked up by the police on 11.3.1992 and that though he had visited AATS several times, the police refused to hand over the deceased to him. The applicant sent for the <sup>father &</sup> ~~latter~~ only on 17.3.1992 when his condition became critical and on that date he expired. The enquiry officer considering the evidence of PW3 has chosen to rely upon his evidence to substantiate the charge that the deceased was kept in the custody at AATS where his condition became critical and later on <sup>he</sup> died.

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It does not lie in our jurisdiction to go into the validity of the conclusions of the enquiry officer or whether the evidence was sufficient or not, If there is some evidence on record in order to support the charge of the enquiry officer. We do not therefore accede to the contention that the enquiry officer has drawn conclusions only on conjectures. From the above facts, it was rightly held that the applicant was negligent in not discharging his supervision in not informing his superiors about the illegal detention.

7. It is next contended that the applicant was not supplied with the following documents;

i) Copy of the report of SDM Shahdara into the death of Darshan Lal u/s 176 Cr.P.C.

ii) Copy of final report (Challan) of the case filed by Crime Branch into the death of late Darshan Lal.

iii) Copy of statement of the doctor of Mohan Nursing Home before SDM Shahdara.

iv) Copy of the statement of the father of late Darshan Lal made to the SDM Shahdara.

v) Copies of both those witnesses made u/s 161 Cr.P.C. in the investigation to the Crime Branch.



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8. The enquiry officer has considered this aspect of the matter and found that all relevant documents have been supplied to the applicant. The main charge against the applicant is lack of supervision over his subordinates which shows negligence to duties. ~~the~~ Regarding documents mentioned as i), ii) & iii) above relating to the death of Darshan Lal in the hospital we find that they are not at all material to the enquiry. So also the documents in item iv) & v). In fact in the OA it is stated by the applicant that vide order dated 23.8.1993 copies of statements of witnesses u/s 161 Cr.P.C. were supplied. Moreover, in the application seeking ~~these~~ supply of documents it was not shown how the said documents are material to the enquiry. It is well settled that prejudice must be shown to have caused to the delinquent for not supplying with certain documents. No such prejudice is shown to have caused to the applicant except stating that they have material bearing to the applicant's defence. We are therefore of the view that the above documents (i) to (iii) are not material to the enquiry and they were rightly not supplied. The next contention raised in the written arguments was that the impugned order treating the period under suspension as not spent on duty without giving notice to the applicant as per FR 17(i) and without giving an opportunity of hearing before treating the ~~the~~ period as not

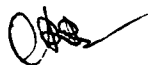
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spent on duty, cannot be accepted as this contention was not raised in the OA. We are also not sure whether the submission is factually correct as this point was not raised in the OA, hence nor dealt with in the counter. In the amended OA, however, it was averred that as per FR <sup>↓</sup>54(B) it was obligatory on the part of the punishing authority <sup>to pass order on</sup> how to treat the suspension period. In the impugned order the disciplinary authority has now passed the order treating the suspension period as not spent on duty and it shall be deemed to be an order passed under FR <sup>↓</sup>54(B).

9. It is contended that the impugned order of placing the applicant under suspension is contrary to Rule 27 of the Delhi Police (Punishment & Appeal) Rules, 1980 according to which the police officer will be suspended only if the charge framed will render him liable for dismissal or removal and that in contemplation of departmental enquiry no suspension order can be passed. We do not agree. Under Rule 27 of the above Rules, a police officer under contemplation of an enquiry, can be placed under suspension if <sup>the disciplinary authority</sup> ~~it~~ was of the view that the conduct of the officer is detrimental to the force.

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10. The next contention raised by the applicant is that the penalty imposed on the

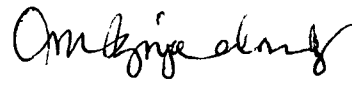


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applicant was multiple in nature as the disciplinary authority has forfeited five years of service reducing the pay of the applicant with further direction that the applicant will not earn increments of pay during the period of reduction and on the expiry of that period, the reduction will have the effect of postponing his future increments of pay. Hence the punishment is not in accordance with Rule 8(d)(ii) of Delhi Police (Disciplinary & Appeal) Rules, 1980. This question is no longer res integra as the Full Bench of the Tribunal has held that such a type of punishment cannot be considered as a multiple punishment and that the same is not contrary to Rule 8(d)(ii) of Delhi Police (Punishment and Appeal) Rules, 1980. It is true that the Full Bench judgement is questioned in the High Court and the same is pending. But unless the Full Bench judgement is set aside or stayed, we are bound by the same. Hence this contention cannot be accepted.

11. In view of the aforesaid discussion, we have to reject all the contentions raised by the applicant. The OA therefore fails and is accordingly dismissed with costs of Rs.2500/-.

  
(Mrs. Shanta Chaste)  
Member(A)

  
(V. Rajagopala Reddy)  
Vice Chairman(J)