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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

DA No. 1978/1995

New Delhi: this the 28th day of February, 2001

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

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Rajinder Singh (No. 875/E),

S/o Shri Ram Belas,
R/o Vill. & PO Mandi,
Distt. Mahendra Garh (Haryana)

...Applicant.

(By Advocate: Shri Shyam Babu)

Versus

1. Addl. Commissioner of Police,
(New Delhi Range),
Police Hqs. IP Estate,
New Delhi.

....Respondents.

(By Advocate: Ms. Neelam Singh)

ORDER

S. R. Adige, VC (A):

Applicant impugns the disciplinary authority's order dated 9.11.94 (Annexure-A) and the appellate authority's order dated 2.6.95 (Annexure-B). He prays that the same be set aside and he be granted consequential benefits.

2. Applicant and Constable Bal Krishan were proceeded against jointly on the allegation that on the night of 4.8.93 when Smt. Raj Rani Gupta along with her husband and Manager of her factory Shri Kulvinder Singh were standing at a Pan Shop, both Constables reached there and started beating her husband on the pretext that they were suspicious persons. They then brought them to Yamuna Pushta where they misbehaved with them and demanded Rs. 5000/- for their release. Later on they extorted Rs. 500/- and a gold ring which was to be returned against a payment of Rs. 2000/- on 5.8.93, the complainant Smt. R j Rani Gupta made a complaint to Inspector Ram Niwas Vashistha, SHO, Geta

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Colony. On this a search was done by SHO through SI Pyar Singh in the presence of the complainant and her husband and the gold ring was recovered from the almirah of Constable Bal Krishan.

3. The Enquiry Officer in his report dated 16.6.94(Annexure-E) held the charge against applicant as well as Constable Bal Krishan as proved.

4. Meanwhile both stood suspended from duty w.e.f. 5.8.93.

5. Show cause notices against dismissal from service were served on both and on receipt of their replies, the disciplinary authority after considering the materials on record and agreeing with the Enquiry Officer's findings imposed the penalty on both of forfeiture of service for 4 years entailing reduction in applicant's pay from Rs.1050 to Rs.970/- for a period of 4 years during which they would not earn increments, and on expiry of which it would have the effect of postponing future increments of pay. The period of suspension was ordered to be treated as not spent on duty.

6. Applicant thereupon filed an appeal, on which by appellate authority's order dated 2.6.95 the penalty was amended to one of forfeiture of approved service for 2 years, the other ingredients of the penalty remaining intact.

7. We have heard applicant's counsel Shri Shyam Babu and respondents' counsel Ms. Neelam Singh. Shri Shyam

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Babu has also filed written submissions.

8. The first ground taken by Shri Shyam Babu is that a copy of the PE report was not supplied to applicant although it was relied upon in the DE and its author was examined. We note that applicant himself states in para 4.6 of the OA that the PE was conducted by Shri Ram Niwas Vashitha SHO, Geeta Colony PS. The PE report and the report of Shri Ram Niwas Vashitha SHO Geeta Colony features amongst the list of documents annexed with the summary of allegations (Annexure-C) and Shri R.N. Vashitha, SHO, Geeta Colony PS features as one of the witnesses who would prove the allegations. We have perused the relevant DE file, on the record of which is the applicant's signed statement dated 22.11.93 that he has received the summary of allegations along with the memo of evidence and the list of documents to be relied upon in the DE. In the face of applicant's own admission, ~~there~~ Shri Shyam Babu's contention that a copy of the PE report was not supplied to him is unacceptable, and no advantage accrues to applicant from the contents of para 4.6 of respondents' reply to the OA.

9. It was next contended that the penalty of forfeiture of approved service and withholding of increments was in fact one but two penalties and was violative of Rule 8(d)(iv) Delhi Police (P & A) Rules. It is now well settled in a catena of orders, including a CAT PB (Full Bench) order, that the penalty imposed by the disciplinary authority as modified by the appellate authority, does not constitute any violation of Rule 8(d)(iv) Delhi Police (P & A) Rules or indeed the purpose of Section 21 Delhi Police Act. Hence this ground is

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also rejected.

10. Lastly it was contended that the period of suspension could not have been treated as period not spent on duty. As applicant was not completely exonerated in the DE, respondents cannot be faulted for treating the suspension period as period not spent on duty limiting the emoluments for this period to the suspension allowance already drawn by applicant. Nothing contained in Rule 27 Delhi Police (P & A) Rules persuades us to take a contrary view.

11. No other grounds were pressed by Shri Shyam Babu during hearing.

12. The OA therefore warrants no interference. It is dismissed. No costs.

A. Veda Valli
(DR. A. VEDAVALLI)
MEMBER (J)

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

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