

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2135/95

New Delhi this the ~~11th~~ day of April 1997.

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)
Hon'ble Shri S.P. Biswas, Member (A)

Bakhtawar Singh,
Head Constable,
Resident 21 Police Station Civil Lines,
Delhi-110 054. Applicant

(By Advocate: Ms. Jasvinder Kaur)

-Versus-

1. Union of India,
Through its Secretary,
Ministry of Home Affairs,
South Block,
New Delhi.
2. Commissioner of Police,
Police Headquarters,
I.P. Estate,
New Delhi.
3. Addl. Commissioner of Police,
R.P. Bhawan (SEC)
Rashtrapati Bhawan Security,
New Delhi.
4. Dy. Commissioner of Police,
Prov. & Lines,
Old Police Lines,
Rajpur Road,
Delhi. Respondents

(By Advocate: Shri S.K. Gupta Proxy for
Shri Jog Singh)

O R D E R

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

The petitioner in this case was as Assistant Sub Inspector and was discharging his duties to the satisfaction of the respondents for the last 29 years of his service since he had joined the service as constable in the year 1968.

A

2. In March 1992, one unfortunate incidence happened which resulted in the disciplinary proceedings against him alongwith Inspector Incharge viz., Inspector Shri Ram Kishan. A joint inquiry was held and the respondents passed the following order dated 19.4.1995.

In view of the above discussion Inspector Ram Kishan No. D-1/143 being guilty of lack of supervision is hereby awarded the punishment of censure. As regards the ASI, he has misused his power for ulterior motive and charges of corruption and highhandedness have been proved against him. He is quite unfit to hold the rank of ASI. Therefore, ASI Bakhtawar Singh, No. 2625/D is hereby reduced to the lower rank of Head Constable for a period of three years w.e.f. the date of issue of this order.

Thereafter petitioner filed an appeal and the appellate authority have also agreed with the order of the disciplinary authority and dismissed the appeal.

3. We have heard the parties at length today. The learned counsel for the respondents brought to our notice that by way of an amendment a provision has been added to Delhi Police (Punishment and Appeal) Rules, 1980, and the new provision has been incorporated as rule 25(b) by which the petitioner has a remedy to procede against the orders passed in appeal, by way of revision. The petitioner has not sought the said remedy and as such the petitioner has not exhausted all the statutory remedies available to him.

4. The learned counsel for the petitioner also alleged various grounds against the impugned order including the ground that the respondents have not passed any appropriate orders under Rule 15(2) of the Delhi Police (Punishment and Appeal) Rules, 1980 by the competent

authority. Under this Rule, the Additional commissioner of Police is required to pass an appropriate order, once criminal offence is revealed to have been committed. The respondents were to hold a preliminary inquiry as to whether a criminal proceeding or a departmental proceedings are to be initiated against the concerned police persons. The allegation is that for want of an order under Rule 15(2) the entire proceedings have been vitiated. Rule 15(2) is reproduced below:

Rule 15(2): In case in which a preliminary enquiry discloses the commission of a cognizable offence by a police officer of subordinate rank in his official relations with the public, departmental enquiry shall be ordered after obtaining prior approval of the Addl. Commissioner of Police concerned as to whether a criminal case should be registered and investigated or a departmental enquiry should be held.

5. The petitioner has taken this ground at page 15 of the paper book under the Head 'M' and the respondents has not seriously contested the allegations. It was stated that the respondents are not required to pass an order under Rule 15(2) since no criminal proceedings are pending against the petitioner. It was also stated by the counsel for the respondents that no order under Rule 15(2) has been passed by the competent authority namely the Additional Commissioner of Police.

6. We are of the considered view that since this Tribunal does not interfere normally in the disciplinary proceedings, unless certain specific grounds are successfully alleged against it. No other substantial ground was alleged in this case, except non-compliance of Rule 15(2). The powers of this Court being extremely

13

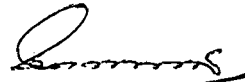
limited to interfere with the disciplinary proceedings, the Rules of this nature needs to be strictly construed, so that the respondents themselves give sufficient protection to a bonafide personnel from wrong and perverse disciplinary proceedings, without scrutiny by superior officers. Rule 15(2) is one such provision which protect the Police personnel from unscrupulous and perverse inquiry proceedings. Prima facie, the preliminary inquiry has revealed a case of extortion and that being a serious allegation, the competent authority should have passed appropriate orders under Rule 15(2) which is the only protection given to a Police personnel from a possible wrong proceeding, for a scrutiny within the department at the instance of the superior officers.


In view of the findings above, viz., that the petitioner has not availed the remedy of filing a revision petition to the appropriate authority and in view of the fact that the respondents have not passed any order under Rule 15(2), we are of the view that the petitioner shall file a revision petition to the appropriate authority, who shall consider the case, in view of our findings that no orders under Rule 15(2) has been passed. They shall also take into consideration, whether in the absence of the order under the said rule, the entire proceedings should be set aside and de novo inquiry shall be initiated. We are of the view that the orders like the one under Rule 15(2) goes to the root of the case and it is for the revisional authorities we have to look into such serious error in the first instance and

14

pass appropriate orders. Respondents shall consider the propriety of holding a 'de novo' inquiry at this stage, since the petitioner is likely to be superannuated soon.

7. With these directions/observations, this OA is partly allowed. No order as to costs.


(S.P. Biswas)
Member(A)


(Dr. Jose P. Verghese)
Vice Chairman (J)

Mittal