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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 2292/1995

New Delhi, this 27th day of March, 1996

Hon'ble Shri A.V. Haridasan, VC (J)
Hon'ble Shri B.K. Singh, Member (A)

1. Inspector Bir Singh, No.D-I/644
A-4, New Police Lines
Kingsway Camp, Delhi

2. Sub-Inspector Ashok Kumar, No.D/2546
272, Police Colony, Ashok Vihar
Delhi

.. Applicants

By Shri Shankar Raju, Advocate

Vs.

Union of India, through

1. Secretary
M/Home Affairs
North Block, New Delhi

2. Commissioner of Police, Delhi
MSO Building, New Delhi

.. Respondents

By Shri Surat Singh, Advocate

ORDER (oral)

Hon'ble Shri A.V. Haridasan

The challenge in this application filed under Section 19 of the AT Act, 1985 is to the order dated 30.11.95 of the Respondent No.2 invoking the power under Rule 25-B of the Delhi Police, (Punishment & Appeal) Rules, 1980 and the applicants have prayed that the order of the disciplinary authority dated 27.6.95 may be restored.

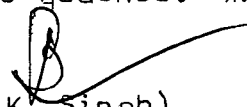
2. Applicants No.1 & 2, who joined service as Sub-Inspector and Head Constable respectively in the Delhi Police, were issued with summary of allegations dated 12.10.94. In the joint enquiry conducted,


the Enquiry Officer in the absence of any evidence to establish the alleged misconduct, recommended exoneration. On receipt of the enquiry report, the disciplinary authority after consulting the second respondent, passed an order dated 27.6.95 exonerating the applicants of the charge and regularising the period of suspension as duty. Rule 25B of the Delhi Police (P&A) Rules provide for the reviewing authority to call for the records of awards made by any of his subordinate, either on his own motion or otherwise and confirm, enhance, modify or annul the same or make further investigation or direct further enquiry to be made before passing order, but no such action can be taken more than six months after the date of order sought to be reviewed except with the prior approval of the Lt. Governor. In para 4(vi) of the CA, it is stated that on receipt of the findings of the EO, the disciplinary authority discussed and consulted the matter with Commissioner of Police, that the proof of the same was there in the notesheet of the internal correspondence file relating to this OE, that after getting approval from the Commissioner of Police only the disciplinary authority vide his order dated 27.6.95 after going through the OE file and relevant records, agreed with the findings and the enquiry against the applicants was closed and there after the suspension period of applicant No.2 was treated as spent on duty for all intents and purposes vide order dated 3.7.95. These allegations are admitted in the corresponding paras of the reply of respondents. Hence the order of the disc. authority exonerating the applicants of the charges were issued after approval of the second respondent.

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3. The second respondent having given approval to the disciplinary authority to discharge the applicants as the enquiry officer opined that there was nothing in the evidence which would justify framing a charge, can not after a lapse of time turn round and say the order discharging the applicants was erroneous. The second respondent had 'scrutinized the enquiry file ^{before} after giving approval to the disciplinary authority'. If the second respondent then felt that the view of the enquiry officer ^{was} is not correct and that charge had to be framed he could not have approved the discharge. That the order of discharge was passed after approval of the second respondent is not disputed. At any rate even if the second respondent could review the order according to the provisions contained in Rule 258, it could not validly direct an enquiry to be held "from the stage of serving the summary of allegations" as done in the impugned orders. Even if a review was possible this decision could be ^{only} to hold further enquiry.

4. In the conspectus of facts and circumstances we find that the impugned order of the second respondent deciding an enquiry to be held from the stage of serving of summary of allegations against the applicant is quashed. No order as to costs.


(B.K. Singh)
Member (A)


(A.V. Haridasan)
Vice-Chairman (J)

/gtv/