

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.293/95

New Delhi this the the 27th day of March, 2000.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN
HON'BLE MRS. SHANTA SHASTRY, MEMBER (ADMY)

1. S.I. Keshav Kumar No.D/3042,
Son of Shri Sahi Ram,
R/o Village Khedasari, Distt. Hanuman Garh,
Rajasthan.
 2. Constable Satish Kumar No.9524/DAP
Son of Shri Har Dass,
R/o 26, Khajoori Khas, Shahdara,
Delhi.
 3. Constable Satinder Singh No.4750/DAP,
Son of Shri Mahinder Singh,
R/o A-I/31-B, Gali No.16,
Khajoori Khas,
Shahdara, Delhi.
- ...Applicants

(By Advocate Shri Shankar Raju, though none appeared)

-Versus-

1. Lt. Governor of NCT of Delhi/Union of India,
through Commissioner of Police,
Police Headquarters, MSO Building,
I.P. Estate, New Delhi.
 2. The Additional Commissioner of Police,
(New Delhi Range) Police Headquarters,
MSO Building, I.P. Estate,
New Delhi.
- ...Respondents

(By Departmental Representative Head Constable
Shri Prem Singh).

O R D E R (ORAL)

By Reddy, J.-

None appears for the applicants. Shri Prem Singh, Head Constable appears for the respondents. The counsel on either side are not present. Since the matter is of 1995, we have taken up the matter for disposal on merits.

2. On the last occasion this case has been adjourned on the ground that one of the points raised, viz., the vires of Rule 8 (d) (ii) of the Delhi Police (Punishment & Appeal) Rules, 1980, which is covered by the decision of the

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Full Bench of the Tribunal in QA No. 2225/93 ASI Chander Pal
v. Delhi Administration & Anr. decided on 18.5.99, was,
 however, challenged before the High Court and the Writ
 Petition was pending disposal. On that ground the case has
 been adjourned ~~for~~ more than once. But the Writ Petition has
 still not been disposed of by the High Court. In the
 circumstances, we have taken up the matter for disposal.

3. The three applicants, Sub Inspector Keshav
 Kumar, Constable Satish Kumar and Constable Satinder Singh,
 are working in the Delhi Police. The allegation against the
 applicants was that four tenants were got evicted forcibly at
 the instance of one Brahm Dev with the help of the applicants
 herein. In that connection a FIR was registered against
 Brahm Dev and his son. It was also urged that Brahm Dev with
 the connivance of the applicants harrassed ^{and} implicated them in
 the false criminal case under Section 307 of IPC. As the
 applicants denied the charges, a departmental enquiry was
 held under the Delhi Police (Punishment & Appeal) Rules,
 1980. The enquiry was entrusted to an enquiry officer, who
 after examining several witnesses submitted his findings
 holding the applicants guilty of the charges. The copy of
 the enquiry officer's report was served on the applicants and
 they submitted their replies. The disciplinary authority
 after carefully examining the findings of the enquiry
 officer, replies submitted by the applicants and after
 hearing the applicants in person (only SI Keshav Kumar turned
 up whereas the other applicants did not turn up for oral
 hearing), agreed with the findings of the enquiry officer and
 holding that ^{Lt. Singh} the charges ^{are} ~~being~~ very serious but taking a
 lenient view in view of their young age, imposed the penalty
 of forfeiture of one year's approved service permanently for

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a period of one year, entailing proportionate reduction in their pay from the date of issue of the order, the applicants are also not to earn increments of pay during the period of reduction and on the expiry of the reduction period the reduction will have the effect of postponing their future increments of pay, by the impugned order dated 15.2.94. The appeals filed against the above order were also rejected by the order dated 30.5.94. The O.A. is, therefore, filed, challenging the above orders.

4. The main point urged is that the penalty imposed is contrary to Rule 8 (d) (ii) of Delhi Police (Punishment & Appeal) Rules, 1980. It is the contention of the applicants that the punishment of forfeiture of service can be awarded either with the reduction of pay or withholding/deferment of increments, but both these penalties cannot be awarded simultaneously, as it would amount to multiple punishments. This point, however, is no longer res integra in view of the Full Bench Judgement in OA No. 2225/93 dated 18.5.99 (supra). The Full Bench has taken the view that the penalty of forfeiture of the approved service permanently entailing reduction in pay by 'X' stages for a period of 'X' years during which the officials would not earn increments during the period of reduction and on the expiry of reduction would have the effect of postponing the future increments" is in accordance with law. In the circumstances, the point raised has to be rejected.

5. The next point that has been urged in the OA is that the enquiry officer has acted illegally in placing

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reliance mechanically on the preliminary enquiry report. This point appears to be of no substance. The enquiry officer has examined 8 prosecution witnesses and 2 defence witnesses and analysing their evidence concluded that a quarrel took place between Brahm Dev party and Rajpal party between 6.30 A.M. and 9.30 A.M. and that the applicants failed to arrest Brahm Dev and his associates in time for no valid reasons. Relying upon the findings of the enquiry officer and the evidence on record, the disciplinary authority agreed with the findings of the enquiry officer, but considering the age of the applicants a lenient punishment was imposed.

6. We have perused the enquiry officer's report. The enquiry officer has relied upon the evidence on record collected during the disciplinary enquiry, which ~~which~~ have been agreed to by the disciplinary authority. It is not correct to contend that the enquiry officer relied upon the preliminary enquiry report. It is further contended that as the disciplinary authority has disagreed with the findings of the enquiry officer, he has to record reasons for disagreement and issue notice to the applicants to explain and the same having not been done the enquiry should be held as vitiated. We do not agree. As stated supra, the enquiry officer has given clear finding as to the complicity of the applicants in evicting the tenants forcibly from their tenements. This being the essence of the charge, it has to be held that the enquiry officer has found the applicants guilty of the charge, though no such conclusions have been recorded in the enquiry officer's report. The disciplinary

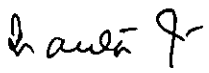
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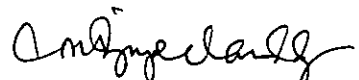
authority agreed with the findings of the enquiry officer and passed the impugned order. Hence, no notice need be given to the applicants recording reasons of disagreement.

7. Several other contentions have been raised as regards the merits of the case. It is the contention of the applicants that they are innocent of the allegation and that they have not taken part and they did not take any step in evicting the tenants. But this cannot be gone into by us in the exercise of the judicial review jurisdiction against the findings arrived at by the enquiry officer on the basis of the evidence on record. The contentions are, therefore, rejected.

8. In the result, the OA fails and is accordingly dismissed. No costs.


(Smt. Shanta Shastri)
Member (Admnv)

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(V. Rajagopala Reddy)
Vice-Chairman(J)