

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

O.A.NO. 348/95

New Delhi, this the 28th day of January, 2000.

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

Sh. Munshi Ram, H.C.No.3874/DAP, IVth  
Bn.DAP, Kingsway Camp, Delhi - 110  
009.

.....Applicant.

(None for applicant)

VERSUS

1. National Capital Territory of  
Delhi through its Chief  
Secretary, Old Secretariat,  
Rajpur Road, Delhi.
2. The Commissioner of Police,  
Police Headquarter, M.S.O.  
Building, I.P.Estate, New Delhi.
3. Sh. D.K.Bhardwaj, Inspector/  
R.I, R.T.C. Wazirbad, 4th Bn.  
DAP.
4. S.I. Mahinder Singh, C/O  
Commissioner of Police, Police  
HQrs., I.P.Estate, New Delhi.

....Respondents

(By Advocate Sh. Rajinder Pandita)

O R D E R (ORAL)

By Hon'ble Mrs. Shanta Shastry, M (A):-

The applicant is aggrieved by the order dated 09.03.93 by which departmental action was initiated against him and the penalty of forfeiture of two years approved service permanently, <sup>who</sup> issued vide order dated 05.04.94 and the appellate order dated 08.11.94 converting the penalty of forfeiture of two years approved service permanently to temporarily for a period of two years.// The applicant was working as a Constable. Disciplinary proceedings were initiated against him for using

(2)

unparliamentary language against the subordinate in the presence of outsiders who happened to be the father of recruit Constable, Rajinder Pal in this case. The Enquiry Officer after detailed enquiry, held him guilty of abusing the recruit Constable, Rajinder Pal and using unparliamentary language against him and held the charge to be proved. The disciplinary authority then passed the final order after carefully going through the representation of the applicant against the findings of the Enquiry Officer and other relevant material available and found that the Enquiry Officer had rightly held him guilty of the charge. He, therefore, imposed the penalty of forfeiture of two years approved service permanently for a period of two years entailing proportionate reduction in his pay from the date of issue of the order and also that he would not earn any increment of pay during that period and the reduction would have effect of postponing his future increment of pay. In the same order, the period of suspension of the applicant from 19.02.93 to 30.03.93 was treated as "not spent on duty". The applicant filed an appeal and in the appeal, his punishment was reduced to forfeiture of the approved service temporarily instead of permanently for a period of two years.

2. According to the OA, when the applicant was issuing cots to recruit Constable, Rajinder Pal, no outsider was present there. The statement of PW-1, i.e. Head Constable, Mange Ram shows that no outsider was present. It has been further submitted that during the

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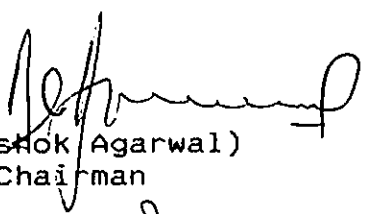
departmental proceedings, the applicant repeatedly requested to produce the relevant register but the same was denied by the Enquiry Officer. He also requested to supply certain documents, the same were rejected out-rightly. According to the applicant, the punishment order was passed without application of mind and is not on the basis of any evidence. He was also not allowed to cross-examine PW-2. He further contends in the application that the statement of PW-2 and Court witness are contradictory and, therefore, the findings of the Enquiry Officer are biased and with malafide intentions.

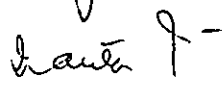
3. We have gone through the report of the Enquiry Officer as well as the order of the disciplinary authority dated 05.04.94. The order of the disciplinary authority is an elaborate a speaking order. The objections raised by the applicant for example <sup>for</sup> not accepting the statement of DW-1, have been noted and squarely dealt with. The disciplinary authority has applied its mind as is evidenced from the detailed discussion given in the order. It is also seen from the Enquiry Officer's report that the applicant was allowed to cross-examine PW-2. It is not for us to re-appreciate the evidence. We are satisfied that the disciplinary authority has taken into consideration the entire evidence such as the statements of the PWs and DWs and the material available on the record as well as the representations submitted by the applicant and after weighing the evidence properly has upheld the findings of the Enquiry Officer.

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4. In the facts and circumstances of the case, we would not like to interfere with the impugned orders. Accordingly the OA is dismissed. We do not order any costs.

  
(Mr. Ashok Agarwal)  
Chairman

  
(Mrs. Shanta Shastri)  
Member (A)

/sunny/