

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.723/95

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 (ADMNV)

Amrik Singh S/o Sh. Jagdish Sing Sandhu,
R/o Quarter No.338, Police Colony,
Ashok Vihar,
Delhi.

...Applicant

(By Advocate Shri A.S. Grewal, though none appeared)

-Versus-

1. Commissioner of Police,
Police Headquarters, MSO Building,
I.P. Estate, New Delhi.

2. The Additional Commissioner of Police,
(Operations) Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi.

3. Deputy Commissioner of Police, FRRO,
Hans Bhawan, Near ITO,
New Delhi.

...Respondents

(By Departmental Representative SI Rajpal Singh)

O R D E R (ORAL)

By Shanta Shastri, Member (Admnv):

Neither the applicant in person nor his counsel is present. On behalf of the respondents Shri Rajpal Singh, SI is present. Since the matter is of 1995, we have proceeded to dispose of the OA on the basis of available pleadings, on merits.

2. A departmental enquiry was initiated against the applicant, who is a Sub Inspector, under the Delhi Police (Punishment & Appeal) Rules, 1980, for allegedly clearing one passenger on the basis of a forged passport. The allegation against the applicant is that on the night intervening 1/2.3.92 around midnight ~~got~~ the information was received that one passenger Joginder Singh Cheema holder of passport

issued at Vancouver on 28.11.91 got immigration clearance, as a passenger of flight NO.AF-191 bound for Montreal and was detained/off loaded by Air France ground staff. The Canadian Embassy official First Secretary, Immigration control officer gave his report dated 1.3.92 in writing that the Passport held by the passenger was a totally counterfeit one. On checking of the Passport, it was found that the passenger Joginder Singh Cheema was cleared from departure Right wing with Immigration stamp issued to the applicant whereas all other passengers of the said flight were cleared from left wing departure. The said passenger was interrogated by Woman Inspector Tej Rani Chaudhary, Incharge Wing Departure Right) and it was revealed that his elder brother Gurjit Singh had managed this passport and handed it over to him alongwith boarding card, ticket and embarkation card outside the IGI Airport, New Delhi. On instructions, he proceeded straight to Immigration counters for Immigration clearance. He had not approached Air France Airlines counter for any formality. The duty manager of Air France had given a typed letter dated 1.3.92 mentioning therein the detection of said passenger by them. A case FIR No.109/92 u/s 419/420/468/471 IPC & 12 Passport Act was got registered by Incharge Wing Inspector Tej Rani at the Police Station I.G.I. Airport against the said passenger and he was handed over to the local police. From the abovementioned circumstances and factors it is clear that the passenger Joginder Singh was cleared by the applicant clandestinely with ulterior motives." The applicant was, therefore, placed under suspension w.e.f. 2.3.92. Accordingly, departmental enquiry was conducted. The enquiry officer submitted his findings with the conclusion that the charge levelled against the defaulter applicant that the passenger Joginder Singh Cheema was cleared from Right

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Departure Wing by the applicant whereas the said passenger was to be cleared from the Left Departure Wing is substantiated.

A copy of the enquiry report was given to the applicant on 27.5.93. After the applicant had submitted his representation on 8.6.93 the disciplinary authority imposed the penalty of dismissal from force with immediate effect. His suspension period from 2.3.92 onwards was decided as period 'not spent on duty'. On appeal filed by the applicant the appellate authority modified the punishment of dismissal passed on 17.9.93 by the disciplinary authority to the extent that instead of dismissal the punishment of forfeiture of three years approved service was imposed on the applicant. His pay was reduced by three stages from Rs.1820/- to Rs.1640/- per month from the date of the order till his superannuation on 30.6.96. Also the applicant was not to earn increment of pay during the period of reduction of pay.

The intervening period from date of dismissal till the applicant joined duty was to be treated as deemed suspension. The said period to be treated as not spent on duty.

3. The applicant has impugned the orders dated 17.9.93 of the disciplinary authority and appellate authority dated 4.4.94 and has prayed to quash the orders of the disciplinary authority as well as the appellate authority.

4. The grounds taken by the applicant for quashing the penalty orders are that none of the PWs stated any thing against the applicant relating to connivance and ulterior motives of the applicant in clearing the passenger Sh. Joginder Singh Cheema. The passenger was cleared on the direction of the Woman Inspector Tej Rani incharge along with other passengers on diplomatic counter. The applicant had done so in consultation with the Woman Inspector Tej Rani. The clearnace was given after seeing the arrival stamp on the Passport of the passenger. According to the applicant the

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enquiry officer omitted to consider the statements of the Dws who have categorically proved that there were instructions of Senior Officers that if the passengers are foreigners and there is a great rush to be cleared only the arrival stamp of the foreign national be seen on the passport and no delay be caused in clearing them. The applicant has also attributed bias and prejudice to the punishing authority. It is further contended that in a similar case of SI Ramesh Chand the same disciplinary authority exonerated him on 17.9.93, whereas the applicant was awarded the extreme penalty of dismissal. In many similar cases the charged officers were either let off or awarded minor penalties of censure or warning for such lapses, if any. The appellate authority has awarded triple punishments. No prior approval for continuous suspension as required under Rule 27 (d) of the Delhi Police (Punishment and Appeal) Rules, 1980 was obtained. Suspension was not warranted in this case. Therefore, the suspension period should be treated as duty period.

5. We have carefully considered the pleadings and the relevant material available on record. We find that the enquiry officer has clearly substantiated the charge that the applicant had cleared the passenger Sh. Joginder Singh Cheema from the Right Departure Wing instead of a forged Passport. The disciplinary authority has carefully examined the statements of the PWs, DWs, the exhibits etc., the representation of the applicant, ^{and he} has issued a reasoned speaking order, imposing the penalty of dismissal. He has taken into consideration the points raised by the applicant. The appellate authority has also passed a speaking order based on the relevant records, facts and circumstances of the case and after giving a personal hearing to the applicant on

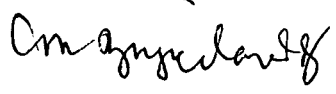
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11.2.94 and modified the penalty on the ground that the allegations of ulterior motive/collusion are not supported by evidence on record. The ground that suspension was not justified cannot be accepted because at the time the enquiry was contemplated it was expected that it would end in removal/dismissal of the applicant. The suspension was justified. We are satisfied that the appellate authority has acted in a fair manner and has been quite considerate. We are, therefore, not inclined to interfere with the impugned orders.

6. In the facts and circumstances of the case we do not find any merit in the OA and, therefore, dismiss the same. We do not order any costs.


(Smt. Shanta Shastry)
Member (Admnv)

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