

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO. 862/1995

New Delhi this the 06th day of March, 2000.

8

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V. K. MAJOTRA, MEMBER (A)

Constable Subhash Chand  
S/o Sunda Ram,  
R/o C-1/P.S. Mehrauli,  
New Delhi-110030.

... Applicant

( Shri M.K.Bhardwaj for Shri S.K.Gupta, Advocate )

-Versus-

1. Govt. of N.C.T. of Delhi through  
Chief Secretary,  
5, Sham Nath Marg,  
Delhi.
  2. Commissioner of Police,  
I.P.Estate, New Delhi.
  3. Addl. Commissioner of Police (Operations),  
Police Headquarters, I.P.Estate,  
New Delhi.
  4. Deputy Commissioner of Police (FRRO),  
Delhi Police, I.P.Estate,  
New Delhi.
- ... Respondents

( By Shri Rajinder Pandita for Shri Vijay Pandita,  
Advocate )

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

A penalty of dismissal from service imposed against applicant in disciplinary proceedings conducted against him is impugned in the present O.A. The order of the disciplinary authority imposing the aforesaid penalty has been passed on 11.3.1993 and the one passed by the appellate authority is dated 10.8.1993. Applicant had purported to file a revision application against the order of the appellate

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authority. However, by a communication dated 22.2.1994, applicant was informed that the same was not maintainable in view of Section 23(2) of Delhi Police (Punishment & Appeal) Rules, 1980. (9)

2. The disciplinary proceedings initiated against applicant contained the following charge :

"You, Const. Subhash Chand No.275/F, are hereby charged that while detailed for duty at Immigration Check Post Departure Right Wing, I.G.I. Airport Terminal-II, New Delhi on the night between 5/6.7.90 collected 20 US Dollars from ACIO-II R.K.Srivastava who had received the same as an illegal gratification from one Sh. Mangaljit s/o Shri Durga Das r/o Jhandu Singh Patti Dadu, Jalandhar (Punjab) going to London by flight AI-111 at about 6.00 A.M., for giving him immigration clearance. You were noticed throwing the currency note of 20 US Dollars alongwith one currency note of 10 Dollars, one currency note of Rs.100/- and two currency notes of Rs.20/- each behind the dustbin kept outside the room in which you were being taken for your personal search.

Therefore, the above act on your part amounts to grave misconduct and unbecoming of police officer on your part which renders you, Constable Subhash Chand No.275/F, liable for departmental action U/s 21 of Delhi Police Act, 1978."

3. Summary of allegations is contained at Annexure A-4. Initially the enquiry officer on 31.5.1991 submitted his finding that the charge levelled against applicant had not been substantiated. The disciplinary authority, however, after examining the file, disagreeing with the finding of the enquiry officer, issued a show cause notice to applicant. Applicant, in the meanwhile, approached this Tribunal by filing O.A. No.1994/91 and obtained an ad interim

order of stay. The said order of stay was later vacated by an order passed on 22.1.1993 and the O.A. was disposed of with a direction that applicant should first submit his reply to the show cause notice and was thereafter at liberty to file a fresh O.A. The disciplinary authority thereafter considered the representation submitted by applicant. He also gave him a personal hearing. The disciplinary authority thereafter by a detailed speaking order has found applicant guilty of the misconduct alleged against him. He has thereupon proceeded to impose the impugned penalty of dismissal from service. Copy of the order of the disciplinary authority is to be found at Annexure A-1. The said order, we find, is a well reasoned order, which takes into account the entire material on record and the points raised by applicant in support of his defence. The order thereafter proceeds to hold applicant guilty of ~~the~~ misconduct and proceeds to record a penalty of dismissal from service. The order of the appellate authority is to be found at Annexure A-2. The same, we find, is also a detailed speaking order. The same also takes into account the entire material on record and the submissions made by applicant. The appellate authority has even given a personal hearing to applicant. The appellate authority has thereupon concurred with the finding of the disciplinary authority and has proceeded to affirm the penalty imposed by the disciplinary authority.

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10

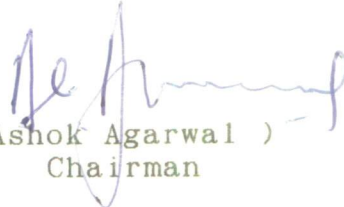
4. Present proceedings are departmental proceedings. The same do not require the same standard of proof as is required in a criminal court for proving a criminal offence. Preponderance of probabilities is sufficient to bring home the guilt against the delinquent in departmental proceedings. As far as applicant is concerned, it is no doubt true that he was not the one who was pointed out by the passenger Shri Mangaljit S/O Durga Das to have obtained 20 US Dollars for clearing him for his Air India-111 flight to London at the Indira Gandhi International Airport on 6.7.1990 at 6.10 a.m. Aforesaid passenger had pointed out to ACIO R.K.Srivastava who in turn has been exonerated in the disciplinary proceedings initiated against him. The same, in our view, can have no bearing in the present disciplinary proceedings against applicant as he was found to have attempted to clandestinely throw away the US Dollars near a dustbin. His possession of the US Dollars makes it clear that he had received the aforesaid Dollars from passengers for clearing them at the Immigration. His possession of the said Dollars is a telling circumstance <sup>and</sup> in the same can lead one and only one inference, namely, guilt of the applicant. Finding of guilt, as is clear from the orders of the disciplinary authority as also the appellate authority is based on good and cogent evidence. The aforesaid orders are well reasoned orders which have taken into account the entire evidence as also the defence of applicant. Aforesaid findings, in our view, cannot be successfully assailed in this Tribunal. Once finding



of guilt is arrived at, the only penalty which can be imposed is the one which has been inflicted, namely, the penalty of dismissal from service. The proceedings in this case show that principles of natural justice have been duly followed and no fault could be found with the conduct of the enquiry as also the imposition of the penalty.

12

5. Present O.A., in the circumstances, is dismissed. There will, however, be no order as to costs.



( Ashok Agarwal )  
Chairman



( V. K. Majotra )  
Member (A)

/as/