

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1202 of 1996

Dated this 31st day of January, 2000

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

Woman Head Constable (Ministrial)
Mrs Paramjit Kaur
W/o Shri Kuljit Singh
through Mrs. Avnish Ahlawat, Advocate
243, Lawyers' Chambers
Delhi High Court
New Delhi.

...Applicant

(By Advocate: Mrs Avnish Ahlawat through
proxy Ms. Bibha Mahajan)

versus

1. Union of India, through
Lt. Governor of Delhi through
Commissioner of Police, Delhi
Police Headquarters
M.S.O. Building, I.P. Estate
New Delhi-110002.
2. Additional, Commissioner of Police (AP&T),
Police Headquarters
M.S.O. Building, I.P. Estate
New Delhi-110002.
3. Shri A.S. Toor
Deputy Commissioner of Police
4th Battalion, Kingsway Camp
Delhi Armed Police,
Delhi.
4. Inspector Ram Avatar
Enquiry Officer
4th Battalion, Kingsway Camp
Delhi Police,
Delhi.
5. Shri Bahadur Singh
Assistant Commissioner of Police
2nd Battalion
Delhi Armed Police.
6. Shri R.D. Mittal
Assistant Commissioner of Police
2nd Battalion
Delhi Armed Police,

... Respondents

(Respondents Nos. 3 to 6 to be served
through the Commissioner of Police, Police
Headquarters, M.S.O. Building, I.P. Estate,
New Delhi-110 002.)

(By Advocate: Shri Vijay Pandita)

O R D E R (Oral)

Hon'ble Mrs Shanta Shastry, M(A)

A departmental enquiry was initiated against the applicant who is a Woman Head Constable in Delhi Police on the allegation that she gave a false statement and a false affidavit in the Departmental Enquiry (D.E. for short) against another Head Constable Shri Md. Hanif. She was held guilty of the charge and was punished with forfeiture of five years' approved service permanently for a period of five years entailing reduction in her pay from Rs.1125 to Rs.1000 p.m. from the date of issue of the order dated 23.8.1995 of the disciplinary authority.

2. The applicant has prayed to set aside the finding of the Enquiry Officer (E.O. for short), the order dated 23.8.1995 and the order dated 12.12.1995 with all consequential benefits including pay and allowances, seniority etc. She has also sought to declare Rule 16 of Delhi Police (Punishment & Appeal) Rules, 1980 as void and to award costs.

3. According to the learned counsel for the applicant the applicant was on maternity leave from November 1992 to 31.12.1992. She visited the office on 27.11.1992 to meet her friend in the ASIP Branch when she witnessed an incident wherein another Head Constable Md. Hanif was

being beaten on the directions of the ACP. When a D.E. was held against Md. Hanif she deposed in the D.E. in favour of Md. Hanif that she saw him being beaten up unnecessarily. A D.E. was, therefore, initiated against her for giving false affidavit and she was punished. It is the contention of the applicant that the entire proceedings against her were malafide and she was being punished deliberately as she raised her voice against a senior officer. According to her HC. Md. Hanif against whom a D.E. was held, was punished only with forfeiture of three years service whereas she who had only deposed in his favour was punished with five years forfeiture of service which is disproportionate. Further there was another witness at the incident, one Shri Bhagat Raj. He also deposed in favour of Shri Md. Hanif. Though he was similarly placed to the applicant, he was punished with only forfeiture of one year approved service temporarily. This shows that there is discrimination and it is only with malafides that the applicant was targeted. She also claims that during the enquiry none of the PWs had stated that she had deposed falsely or she had given false affidavit.

4. The learned counsel for the respondents states that the applicant was not present at the site of the incident and she had given a false

affidavit giving false statements. The learned counsel for the respondents also points out that the applicant herself had withdrawn her statement during the enquiry against Shri Md. Hanif. If she had seen the incident she should have reported the same to her seniors. She did not do so. According to him there were witnesses who had not supported her presence in the office at the site of the incident on 27.11.1992.

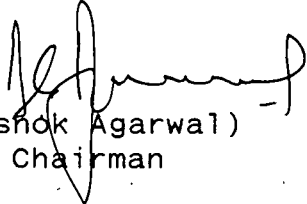
5. We have heard the learned counsel for both the parties.

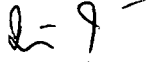
6. We find that there is substance in the contention of the applicant that she has been acted against in malafide. This is evident from the disproportionate punishment given to her compared to the punishment to similarly placed other witness Shri Bhagat Raj. Also considering that her D.E. was initiated for deposing in the D.E. held against Md. Hanif where the delinquent has been let off with lesser punishment, we are of the view that the enquiry is vitiated on this ground itself. Also it is seen from the statements of ASI Bahadur Singh, Shri Satyavir Singh and Shri Sukhbir Singh that their statements pertained to the shoutings in the room of ACP Shri Mittal and not to the incident of beating which took place outside the room. These ^{statements} cannot establish that she was not

there at the alleged incident. Her statement has also not been proved wrong.

7. In the facts and circumstances of the case, we allow the OA and set aside the impugned orders dated 23.8.1995 and 12.12.1995 as prayed for by the applicant with all consequential benefits.

8. No order as to costs.


(Ashok Agarwal)
Chairman


(Shanta Shastri)
Member(A)

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