

Central Administrative Tribunal
Principal Bench

O.A. 1215/96

New Delhi this the 4th day of February, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri M.P. Singh, Member(A).

Constable Krishan Pal,
No. 207/SB, NCPP Section,
S/o Shri Vikram Singh,
R/o Vill & PO - Nali Hussainpur,
Distt. Ghaziabad (UP).

Applicant.

By Advocate Shri Mohit Madan proxy for Mrs. Aynish Ahlawat.

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-110 002.
2. Additional Commissioner of Police,
(Northern Range),
Police Headquarters,
I.P. Estate,
New Delhi-110 002.
3. Deputy Commissioner of Police (HQ/1),
Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi-110 002.
4. Deputy Commissioner of Police,
(Central District),
Darya Ganj,
Delhi.

Respondents.

By Advocate Shri Vijay Pandita.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the orders passed by the respondents initiating disciplinary proceedings against him, continuing the disciplinary proceedings resulting in imposition of punishment order passed by the disciplinary authority dated 22.12.1993 and rejection of his appeal by the appellate authority by order dated 9.2.1995.

2. We have perused the pleadings and heard Shri Mohit Madan, learned proxy counsel for the applicant and Shri Vijay Pandita, learned counsel for the respondents.

3. Shri Mohit Madan, learned proxy counsel for the applicant has submitted that on perusal of the charge levelled against the applicant and four other persons (Page 50 of the paper book), it is relevant to note that they were charged that they were personally and physically associated with the whole incident that took place on 8.7.1992. This included alleged harassment of Shri Mahmood and Sanjay and accepting bribe. In the charge, it has also been mentioned that the aforesaid acts on the part of the applicant amounted to gross misconduct and negligence rendering them unbecoming of a Govt. servant and liable to be dealt with departmentally under Section 21 of the Delhi Police Act. According to the learned proxy counsel, the Inquiry Officer in his report had not found any of the charges proved against the applicant. The relevant portion of the Inquiry Officer's report reads as follows:

"Therefore it is proved beyond doubt that the P.O. Staff consisting of HC Krishan Pal, Ct. Tara Chand, Ct. Vijendra and Ct. Satendra brought Sh. Mehmood and Sh. Sanjay to P.S. Daryaganj under the impression that Sh. Mehmood is a P.O. of Meerut. All the defaulters have also conceded this fact. Bringing of a P.O. to Police Station by Police personnel is not an offence. However, the disposal of the complainant is not as per law. Once it was proved that the complainant Sh. Mehmood was not a P.O. he should have been disposed off from the P.S. by observing all the codal formalities, such as writing a report in the Daily Diary and informing senior officers which was not done. Therefore, I found HC Krishan Pal, Ct. Vijendra, Ct. Satendra and Ct. Tara Chand guilty for the lapse. On the other hand, the defaulters say that Sanjay was picked up because he was obstructing them to discharge their duty. If their version is relied upon then why action was not taken against him. All the above mentioned four persons are also guilty of neglecting to book Sanjay".

J.S.

In the last paragraph of the report, the Inquiry Officer had found the SHO Daryaganj guilty of all these things for which the applicant as well as other three persons were also found guilty.

4. The learned proxy counsel has submitted that the applicant was only a reader for the SHO and did not belong to the Proclaimed Offenders ^(PO) staff. He has submitted that the disciplinary authority had wrongly come to the conclusion that the applicant had failed to observe all necessary "codal formalities", such as writing a report in the Daily Diary and informing senior officers immediately about the facts relating to Shri Mahmood and Sanjay. According to him, this conclusion is not supported ^{by any evidence} because one of the Prosecution Witnesses called in the inquiry, namely PW-7 Constable Balbir Singh had deposed that he had made the departure DD of the applicant along with Government vehicle to arrest the POs and also made the arrival duty (Page 49 of the paper book). This statement has been recorded by the Inquiry Officer. Learned counsel has submitted that on the basis of the evidence - statement of ^{the PW} Constable, the disciplinary authority could not have come to the conclusion that there has been failure on his part to observe the necessary formalities. He has, therefore, contended that as there is no evidence against the applicant, the impugned punishment orders should be quashed and set aside.

5. The disciplinary authority in his order dated 22.12.1993 had ordered with-holding of two increments of pay for a period of two years permanently with respect to the applicant. On appeal filed against this order, the appellate authority had reduced the punishment passed by the

disciplinary authority by ordering with-holding of two increments for a period of one year permanently instead of two years.

6. We have seen the reply filed by the respondents and heard Shri Vijay Pandita, learned counsel. According to the learned counsel, the departmental inquiry proceedings and the punishment orders passed thereafter have been held ^{Passed B.} in accordance with the relevant rules and instructions. He has controverted the submissions made by the learned counsel for the applicant that there was no basis for the competent authority to impose any punishment as there was no charge against the applicant which could be held to have been proved. According to him, the Inquiry Officer had come to the conclusion in his report that once it was proved that the complainant Mahmood was not the PO, he should have been disposed of from the police station by observing all the codal formalities, such as writing the report in the Daily Diary and informing senior officers which was not done. This fact was also referred to by the disciplinary authority in his order. Learned counsel has submitted that the punishment awarded to the applicant which has been reduced by the appellate authority has been done after fully appreciating the facts and circumstances of the case. He has, therefore, prayed that the claim of the applicant for quashing the punishment orders should be dismissed.

7. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

8. On a careful perusal of the charge levelled against the applicant and three other persons, we are unable to agree with the contention of the applicant's counsel that the punishment orders should be quashed and set aside. The charge against the applicant includes gross misconduct and negligence in discharge of his duties as a Govt. servant for which he was proceeded departmentally u/s 21 of the Delhi Police Act. The statement of PW-7 which has been relied upon by the applicant is only with regard to the Daily Diary entries in respect of the applicant and other three persons about their departure and arrival for duty. The conclusion of the disciplinary authority is that once it has been proved that the complainant Mahmood was not a PO, he should have been disposed of by observing all the codal formalities, such as writing the report in the Daily Diary and informing senior officers immediately, which has admittedly not been done by the applicant.

9. The conclusions of the Inquiry Officer as well as the disciplinary authority are based on the evidentiary materials placed before them. It is settled law that the Courts or Tribunal should not reappreciate the evidence. In the facts and circumstances of the case, we are unable to agree with the learned counsel for the applicant that this is a case where there was no evidence against the applicant on the basis of which the respondents could have imposed the punishment orders. We are satisfied from a perusal of the records that the respondents have held ^{the} departmental inquiry against the applicant and three other persons in accordance with law and rules. We have also considered the other

contentions raised by the learned counsel for the applicant but do not find them sufficient to justify any interference in the matter.

10. In the result, for the reasons given above, the O.A. fails and is dismissed. No order as to costs.

M.P. Singh
(M.P. Singh)
Member(A)
'SRD'

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)