

Central Administrative Tribunal, Principal Bench

Original Applications Nos.1414 & 2443 of 1996

New Delhi, this the 27th day of July, 2000

(8)

Hon'ble Mrs. Lakshmi Swaminathan Member (J)
Hon'ble Mr. V.K. Majotra, Member (A)

(1) Original Applications No.1414 of 1996

Nidan Singh (11193/DAP), Son of late Shri
Katar Singh, R/o Village Ladrawon, P.S.
Bahadurgarh, Distt. Rohtak (Haryana) - Applicant

(By Advocate Shri Shyam Babu)

Versus

1. Deputy Commissioner of Police, 10th Bn.
DAP Delhi, Pitampur, New Delhi.
2. Senior Addl. Commissioner of Police, (AP&T)
Police Headquarters, I.P. Estate, New Delhi - Respondents

(By Advocate Shri Rajinder Pandita)

(2) Original Applications No.2443 of 1996

Joginder Singh (3817/D), Asstt. Sub Inspector,
S/o late Sh. Samir Singh, R/o D-8, Type-II,
New Police Lines, Delhi - Applicant

(By Advocate Shri Shyam Babu)

Versus

1. Senior Addl. Commissioner of Police,
(AP&T) Police Headquarters, I.P. Estate,
New Delhi.
2. Dy. Commissioner of Police, 6th Batn.
D.A.P., Kingsway Camp, Delhi - Respondents

(By Advocate Shri Vijay Pandita)

Common Order

By V.K. Majotra, Member (A) -

Main issue involved in these two OAs being identical, they are being disposed of by this common order.

2. In OA 1414/1996 applicant Nidan Singh has challenged order dated 11.12.1995 (Annexure-A) by which penalty of removal from service was imposed upon him. He has also challenged order dated 17.4.1996 (Annexure-B) passed in appeal by which aforesaid penalty

(9)

of removal from service was diluted to punishment of forfeiture of two years approved service permanently for a period of two years entailing reduction in his pay by two stages from Rs.990/- to Rs.950/- in time scale of pay for a period of two years. It was further directed in that order that he would not earn increment of pay during the period of reduction and on its expiry the reduction will have the effect of postponing his future increments of pay. The period of absence was treated as 'dies non'.

3. Applicant Joginder Singh in OA 2443/1996 has assailed order dated 16.2.1996 (Annexure-A) whereby penalty of forfeiture of five years approved service for a period of 5 years entailing reduction of pay by five stages from Rs.1500/- to Rs.1350/- in the time scale of pay was imposed. It was further directed in that order that during the period of reduction the applicant will not earn increment of pay and the reduction will have the effect of postponing his future increments of pay. The applicant has also impugned appellate order dated 17.7.1996 (Annexure-B) maintaining the aforesaid penalty.

4. The main issue contested on behalf of the applicants is that the impugned order of punishment is not in accordance with Rule 8(d)⁽ⁱⁱ⁾ of Delhi Police (Punishment & Appeal) Rules, 1980. According to the learned counsel this rule authorises only one of those above mentioned penalties i.e. forfeiture of approved service or deferment of future increments. The learned counsel of the respondents referred to a decision of the Full Bench of this Tribunal in the case of A.S.I.Chander

Pal Vs. Delhi Administration & another, O.A.No.2225 of 1993 decided on 18.5.1999 wherein it has been held that "[T]he penalty of forfeiture of 'X' years approved service permanently entailing reduction in pay by 'X' stages for a period of X years with the condition that the delinquent police official would not earn increment/increments during the period of reduction and on the expiry of that period the reduction would have the effect of postponing the future increments, is in accordance with law". The learned counsel of the ~~parties~~ mention that the Delhi High Court has issued notice in a writ petition filed against aforesaid judgment of Full Bench, which is listed for 13.10.2000. The learned counsel of respondents has further relied upon an order dated 6.3.2000 in the case of Constable Satbir Singh Vs. Union of India and another, O.A.909 of 1995.

5. In view of the fact that aforesaid order of Full Bench of the Tribunal has not been stayed, the ratio of that order is binding upon us and we have to hold similarly that the punishment imposed in the present OAs is in accordance with law.

6. The learned counsel of the applicant has next contended that the charges against the applicants have not been proved beyond reasonable doubt by the prosecution, accordingly, the findings recorded by the enquiry officers have been arbitrary and unjustified. The learned counsel of the respondents pleaded that neither technical rule of evidence nor ^{doctrines of proof} ~~doctrines of proof~~ "beyond doubt" apply to disciplinary proceedings. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/ Tribunal.

He placed reliance on B.C.Chaturvedi Vs. Union of India & others, JT 1995 (8) SC 65. Agreeing with the ratio of aforesaid judgment that judicial review is not an appeal from a decision but a review of the manner in which the decision is made, we are satisfied that sufficient evidence has been led by the prosecution against the applicants to bring home preponderance of probabilities. The doctrine of proof beyond doubt has no application in departmental enquiries.

7. Having regard to the reasons described above and the facts of both the cases, we do not find the present O.As. fit for interference. Accordingly, these O.As. are dismissed, however, without any order as to costs.

V.K.Majotra

(V.K.Majotra)
Member (A)

Lakshmi Swaminathan

(Mrs.Lakshmi Swaminathan)
Member (J)

rkv