

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1810/1996

New Delhi this the 1st day of March, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

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

Harish Kumar
S/o Shri Ramendra Kumar
R/o A-15, P.S. Paharganj
New Delhi-110 055.

.... Applicant

(None for the applicant)

-Versus-

1. Commissioner of Police
Police Headquarters
I.P. Estate
New Delhi.
2. Additional Commissioner of Police
Police Headquarters
I.P. Estate
New Delhi.
3. Deputy Commissioner of Police
New Delhi District
Parliament Street
New Delhi.

... Respondents

(ASI Randhir Singh, Pairavi Officer
for the Respondents)

O R D E R (ORAL)

Shri Justice Ashok Agarwal:

Applicant and his Advocate are absent. We have perused the papers and we proceed to dispose of the OA on merits as per Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. An order issued by the Additional Deputy Commissioner of Police in the disciplinary proceedings initiated against the applicant on 23.4.1993 imposing a penalty of forfeiture of 5 years' service permanently for a period of 5 years thereby reducing

his pay to five stages from Rs.1090/- p.m. to Rs.990/- p.m. in the time scale of pay of Rs.950-20-1250-EB-25-1400 for a period of five years is impugned in the present OA. Aforesaid order of the disciplinary authority has been affirmed by the Additional Commissioner of Police who is the appellate authority by his order passed on 29.6.1993. The said order is also impugned in the present OA.

3. Applicant at the relevant time was working as a Beat Constable in the area of Pakistan High Commission under the Chankya Puri Police Station. Several complaints had been received in respect of visa seekers jumping the queue with the help of touts. On 6.2.1992 at 0300 hrs. Assistant Commissioner of Police Chankya Puri visited the Pakistan High Commission in the company of Inspector Jawahar Singh and apprehended three touts, (i) Jailish S/o Asghar Ali, (ii) Munna S/o Allhadin, and (iii) Amir Ahmed S/o Bashi Khan. An amount of Rs.2500/- was recovered from the possession of aforesaid Jailish who confessed that out of the said amount, an amount of Rs.320/- belonged to him and the remaining amount has been collected from persons to whom he had helped in a bid to get visas out of turn. All the aforesaid three persons admitted before the Assistant Commissioner of Police, Chanakya Puri that they were doing this business for several days at the instance of the applicant who was then posted at Chanakya Puri Police Station as a Beat Constable of that area.

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4. For the aforesaid misconduct, applicant was placed under suspension by an order passed on 8.2.1992. The disciplinary proceedings were initiated against the applicant. The inquiry officer submitted his findings on 20.11.1992. He has appreciated the entire evidence on record and after considering the same has found the applicant guilty of the charge levelled against him. The aforesaid finding of the inquiry officer was served on the applicant so as to enable him to submit his representation against it. Applicant accordingly submitted his reply. The disciplinary authority thereafter gave a hearing to the applicant. The disciplinary authority on appraisal of the evidence found that PW Jalish Ahmed had turned hostile and had declined to support the prosecution. He, however, found that the rest of the prosecution witnesses had deposed against the applicant and had supported the allegations made against him. The disciplinary authority after considering the evidence as also the representation made by the applicant accepted the findings of the inquiry officer holding the applicant guilty of the charge. Though on charges held proved, a penalty of dismissal from service was warranted, the disciplinary authority taking a lenient view on account of the past clean record of service and his young age imposed a lesser penalty in order to give a further chance to him to improve. Aforesaid order of penalty was accordingly passed by the disciplinary authority against the applicant.

5. Aforesaid order of the disciplinary authority was impugned by the applicant by preferring an appeal. By an order passed on 23.6.1993, the same has been dismissed. Applicant thereafter made a revision petition to the Commissioner of Police which by an order passed on 10.1.1994 was rejected as being not maintainable. Hence the applicant has presented the present OA.

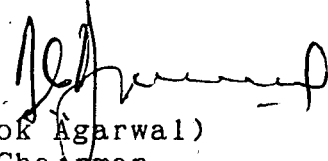
6. In the OA as initially filed, applicant had averred that the same had been filed within the period of limitation. ~~When~~ The respondents in their counter pointed out that though the representation of the applicant had been rejected as being not maintainable on 10.1.1994, present OA has been filed beyond the period of limitation on 22.8.1996. Applicant in the circumstances has now preferred MA No.1707/96 for condoning the delay. Having regard to the averments contained in the Misc. Application, we condone the delay and proceed to dispose of the OA on merits.

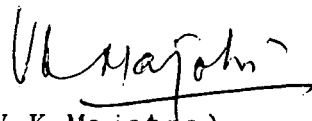
7. We have perused the entire material on record and we find that the orders impugned cannot be successfully assailed in the present OA. Finding of guilt was based on evidence on record. The said evidence has found favour with the inquiry officer, the disciplinary authority as also the appellate authority. We are not a court of appeal. Hence it will not be permissible to reappreciate the evidence and come to a conclusion contrary to the one arrived at by the aforesaid authorities. As far as principles

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of natural justice are concerned, the same, we find have been, duly complied with. Applicant has participated in the inquiry before the inquiry officer. Findings of the inquiry officer have been duly served on the applicant and the applicant has submitted his representation against the findings. Aforesaid findings as also the evidence on record and the representation of the applicant have been duly considered by the disciplinary authority and the same has affirmed the finding of guilt and ^{disciplinary authority has} proceeded to impose the aforesaid penalty upon him. The disciplinary authority has also given a personal hearing to the applicant. Applicant has threreafter carried the matter in appeal and the appellate authority has also affirmed the finding of guilt and has dismissed the appeal. In our judgement, both on merits as also on the procedural aspect, no defect is found so as to warrant interefence in the present OA.

7. Present OA in the circumstances is dismissed. No order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member(A)

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