

(18)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

1) O.A.No.1468/93

New Delhi: this the 13th day of September, 1999.

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A).

HON'BLE MR.P.C.KANNAN, MEMBER(J).

Ram Parkash,
S/o Shri Ramji Lal,
R/o House No.H-142, Ganga Vihar,
Gokulpuri,
Delhi- 110094

.... Applicant.

(By Advocate: Shri Shankar Raju)

Versus

1. Commissioner of Police Delhi,
Delhi Police Headquarters,
MSO Building,
I.P.Estate,
New Delhi.

2. Addl. Commissioner of Police,
Northern Range,
Delhi Police Headquarters,
MSO Building,
I.P.Estate,
New Delhi.

3. Deputy Commissioner of Police,
Central District Darya Ganj,
New Delhi

... Respondents.

(By Advocate: Shri Anand Mathur).

2) O.A.No.2600/96

Constable Ram Parkash,
S/o Shri Ramji Lal,
presently posted at P.S.Krishna Nagar,
East Delhi,

R/o H-142, Ganga Vihar,

Delhi - 95.

... Applicant.

(By Advocate: Shri Shankar Raju).

Versus

1. Union of India,
through its Secretary,
North Block,
Ministry of Home Affairs,
New Delhi

2. Addl. Commissioner of Police,
(Admn/Hq), Police Head Quarter,
MSO Building, New Delhi.

3. Dy. Commissioner of Police,
H. Q. (I), Police Head quarter,
MSO Building,
New Delhi

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.. Respondents.

(By Advocate: Shri Ajesh Luthra)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

As these 2 OAs involve common question of law and fact, they are being disposed of by this common order.

O.A. No. 1468/93

2. In this OA the applicant impugns respondents' order dated 11.7.90 (Annexure-A1) initiating departmental proceedings against him; Disciplinary Authority's order dated 20.9.91 (Annexure-A4) imposing punishment of forfeiture of 3 years approved service permanently for a period of 3 years and entailing reduction in pay; and appellate order dated 20.7.92 (Annexure-A5) rejecting the appeal.

3. Applicant along with 3 others were proceeded against departmentally on the allegations that while posted at P.S. Hauz Qazi in the night of 25/26.6.90 at about 1-50 a.m. an information was received at the police station that one Akram a bad character of P.S. Kamla Market was present in marriage party of Nasir Khan's brother at Hamdard Dawakhana and might create some law and order problem. On receipt of this information, S.I. Joginder Singh along with H.C. Rambir Singh and other policemen reached the spot. The said Akram was apprehended by S.I. Jagbir Singh but the applicant and other constables did not help although they were present in the said marriage party as a

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result of which Akram slipped away. It is further alleged against applicant Ram Prakash that he took the keys of Govt. vehicle No. DAE-6511 from the driver on the pretext that the vehicle may be required at any time in the night, and thereupon he handed over the keys of the vehicle to Const. Ram Prakash who took away the Govt. vehicle to Hamdard Dawakhana and gave it to Const. Satpal who loaded the vehicle with dancing girls along with their associates and took them from Hamdard Dawakhana towards Chowk Hauz qazi unauthorisedly without any information to any senior officer.

4. The Inquiry Officer in his findings dated 27.6.91 held the charge against the applicant and 3 others as proved.

5. On receipt of the Inquiry Officer's report a copy of the same was sent to applicant and 3 others for making representation, if any. Applicant and 3 others submitted their representations. On going through the same as well as the materials on record and giving them a hearing, the Disciplinary Authority vide his impugned order dated 20.9.91 imposed the penalty of forfeiture of 3 years' approved service which was upheld in appeal vide order dated 20.7.92.

6. We have heard applicant's counsel Shri Shankar Raju and respondents' counsel Shri Amresh Mathur.

7. Shri Shankar Raju has invited our attention to a copy of Inquiry Officer's report (which is taken on record) and has emphasised that the report merely lists out what the PUs and DUs stated during evidence

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and did not discuss the evidence or reveal how the Inquiry Officer came to the conclusion that the charges against applicant were proved. In this connection he has invited our attention to Rule 16(ix) Delhi Police (P & A) Rules, 1980 as well as Rule 14 (23) (i) (c) CCS(CCA) Rules.

8. Rule 16(ix) Delhi Police (P & A) Rules requires the Inquiry Officer to record his findings on the basis of evaluation of evidence on each of the charges together with reasons therefor. Similarly Rule 14(23) (i) (c) CCS(CCA) Rules requires the Inquiry Officer's report to contain an assessment of the evidence in respect of each article of charges. From this it is clear that the Inquiry Officer has to evaluate and assess the evidence before him and give the reasons for coming to his findings which should pass scrutiny during the judicial review.

9. A perusal of the Inquiry Officer's findings makes it clear that the I.O listed what the P.Us stated and thereupon after framing charges he has recorded the evidence of DUs, but there is no evaluation and assessment of the evidence and there are no reasons furnished in the report to indicate on what basis the I.O concluded the charges as proved against the applicant. This is by no means sufficient compliance of Rule 16(ix) Delhi Police (P & A) Rules which requires the I.O to evaluate the evidence and give reasons with regard to his findings on the charges.

10. As the impugned orders of the Disciplinary

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Authority as well as that of the appellate authority are based on the Inquiry Officer's report, which as noticed above, suffer from the fatal infirmity of containing no assessment or evaluation of the evidence placed before him, neither the Disciplinary Authority's order nor the appellate authority's order can be sustained in law, in so far as it relates to the applicant.

11. Under the circumstance the impugned orders of the Disciplinary Authority as well as the appellate authority, in so far as it relate to applicant, are quashed and set aside. It will be open to respondents to proceed in the matter strictly in accordance with law from the stage of resubmission of the Inquiry Officer's report after proper assessment and evaluation of evidence and giving reasons on the basis of which the conclusion is reached. No costs.

OA No. 2600/96 :

12. In this OA, applicant impugns respondents' order dated 5.9.95 (Annexure-A1) and dated 10.11.95 (Annexure-A2), and seeks a direction to respondents to restore him to promotion list 'A' w.e.f. 15.2.90 and recognize his lower school training and consider him for promotion to the rank of Head Constable as and when his turn comes after conclusion of enquiry, with all consequential benefits.

13. In this OA, respondents in their reply have admitted that applicant's name was admitted to promotion List 'A' w.e.f. 15.2.90 and state that while his case was being considered for deputing him in Lower School Training in his turn, he was

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facing a DE which was initiated vide order dated 11.7.90. Thereupon applicant filed OA No.1580/91 in the Tribunal for getting him deputed in the LST and the Tribunal passed an interim order directing respondents to allow him provisionally to proceed for LST subject to the outcome of the OA. Applicant was thereupon deputed to undergo the LST which he passed in November, 1991 but the case in regard to admission of applicant's name to promotion list 'B' and the promotion as HC (Ex.) was kept pending till the finalisation of the OA.

14. Subsequently the Tribunal vide order dated 19.4.93 dismissed the OA as withdrawn. On finalisation of D.E., applicant's three years' approved service was forfeited permanently vide order dated 20.9.91 and the appeal against that order was also rejected by the appellate authority vide order dated 10.7.92. Consequently a show cause notice was issued to him on 2.6.95 as to why his name should not be removed from promotion list 'A' under the provision of Rule 7(ii) of Delhi Police (Promotion and Confirmation) (Amended) Rules, 1987. On receipt of the reply which was not found satisfactory by the competent authority, he confirmed the notice removing his name from promotion list 'A' vide order dated 5.9.95 and the applicant's representation against that order was rejected vide order dated 10.11.95.

15. In OA No.1468/93 discussed above, without going into merits of the case, we have quashed the

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impugned orders of the Disciplinary Authority as well as the appellate authority on the ground that they are based on the report of the Enquiry Officer which suffered from an infirmity which was fatal to it. However, while quashing those orders we have given liberty to respondents to proceed in the matter in accordance with law, from the stage of resubmission of the Inquiry Officer's report after proper assessment and evaluation of evidence and after giving reasons on the basis of which the conclusion is reached. If respondents choose not to exercise this liberty and do not resubmit the enquiry report in accordance with these directions within 3 months from the date of receipt of a copy of this order, they should thereafter consider restoring applicant to Promotion List 'A' w.e.f. 15.2.90 and further consider him for promotion to the rank of H.C. with effect from the date his immediate junior was so promoted with consequential benefits.

16. The two OAs are disposed of in terms of paras 11 and 15 above. No costs.

17. Let copies of this order be placed on each of the OA's case records.

(P.C.KANNAN)
MEMBER(J)

(S.R.ADIGE Y
VICE CHAIRMAN (A).

/ug/

Attested photo copy
[Signature]
Court Officer

Central Administrative Tribunal
Principal Bench, New Delhi
Faridkot House,
Copernicus Marg,
New Delhi-110004