

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

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O.A./TAX No. 2685 of 1996 Decided on: 7/4/97

Shish Ram .....Applicant(s)

(By Shri M.L. Chawla Advocate)

Versus

Lt. Governor & Others .....Respondent(s)


(By Shri Rajinder Pardita Advocate)

CORAM:

THE HON'BLE ~~SHRI~~ DR. JOSE P. VERGHESE, VICE CHAIRMAN

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter or not?
2. Whether to be circulated to the other Benches of the Tribunal?

  
(K. MUTHUKUMAR)  
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. NO. 2685 OF 1996

NEW DELHI THIS THE 5<sup>th</sup> DAY OF ~~NOVEMBER~~ <sup>December</sup>, 1997

HON'BLE DR. JOSE P. VERGHESE, VICE CHAIRMAN(J)  
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shish Ram  
S/o Late Shri Hardeva Ram,  
R/o H.No.WZ 202, Gali 14/8  
Saadh Nagar,  
Palam Colony,  
New Delhi-110 045.

..Applicant

By Advocate Shri M.L. Chawla.

Versus

1. Lt. Governor (through the  
Chief Secretary,  
Delhi Administration,  
Government of National Capital  
Territory of Delhi,  
Old Secretariat,  
Delhi-110 006.

2. The Commissioner of Police,  
Police Headquarters,  
I.P. Estate,  
New Delhi.

3. The Additional Deputy Commissioner  
of Police,  
Central District,  
Delhi.

...Respondents

By Advocate Shri Rajinder Pandita.

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

This application is directed against the order of dismissal passed against the applicant by the impugned order dated 9.6.94. The appeal and the revision petitions filed by the applicant also failed.

2. It is alleged, that the applicant, a constable in Delhi Police while in the police booth, searched one Shri



Mahabir Prasad and his friend Shri Virender Nath who were brought to the Police Booth by the police picket staff on duty and after the search took out, Rs.4, 000/- in the denomination of Rs.500 notes (8 notes) and the two persons were allowed to go after threatening them that in case they were arrested, they would have to spend Rs.10, 000/- each for release on bail. On this matter being reported by these persons through the PCR, the matter was brought to the notice of the DCP (Central District), who in turn directed the Assistant Commissioner of Police (UT) to look into the matter. The concerned ACP along with this Mahavir Prasad conducted a personal search on Head Constable, Ajaib Singh and recovered the 8 notes of Rs.500/- from his pocket and another Rs.1600/- were also recovered which also could not be accounted for satisfactorily. Later on, the applicant and another Head Constable Dev Dutt were called to the Police Station where they were identified by Shri Maharvir Prasad. Thereafter, they were placed under suspension. The departmental enquiry was initiated against the applicant along with others. The Enquiry Officer concluded that the defaulters had independently and collectively extorted money from the complainants thereby misusing their official position as policemen in uniform and on duty and returned the finding that the charges were proved. Agreeing with the findings of the Enquiry Officer, the disciplinary authority imposed the penalty of dismissal from service on the applicant and the period of suspension was also treated as period not spent on duty. As

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stated earlier, the appeal against this order and the revision petition filed by the applicant also did not succeed. The applicant has prayed for quashing and setting aside the orders of disciplinary authority, appellate order and the order of the revisional authority and for restoration of the applicant to his original rank and position with all the consequential benefits.

3. The main ground taken by the applicant is that the Enquiry Officer conducted the enquiry with undue haste and that he did not summon the listed prosecution witnesses and had acted merely on the advice of the Deputy Commissioner of Police (Central) and did not conduct the enquiry independently. The enquiry was also conducted without taking prior permission of the competent authority as provided in Rule 15(2) of the Delhi Police (Punishment & Appeal) Rules, 1980. The applicant also submits that he was not supplied with the listed documents for persual and the pre-recorded statements of the prosecution witnesses were taken on record without allowing him the facility of cross-examining. The applicant contends that the entire enquiry was conducted in a mala fide manner and the complainants were also not examined. The entire proceedings were based on hearsay, conjectures and surmises. The applicant was not in possession of any money, as alleged, as no money was recovered from him and the money was recovered from one Head Constable Ajaib Singh.

4. The respondents contest the averments of the applicant and the grounds taken by him. They submit that the

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Enquiry Officer had conducted and concluded the disciplinary proceedings within the framework of Delhi Police (Punishment & Appeal) Rules, 1980 independently and was not influenced by any senior officer. They also contend that the permission of the competent authority was taken before initiating the enquiry. They also submit that the applicant was supplied with the necessary documents and the entire enquiry was conducted without any mala fide and within the ambit of the rules. It is also stated by the respondents that the PW-2 D.S. Sangma, ACP had clearly stated in the enquiry that the complainants as well as D. Pathak, ACP had narrated the incident and, therefore, the misconduct of the applicant had been duly proved in the enquiry. In view of this, the respondents submit that the applicant will not be entitled to any relief and the petition deserves to be dismissed.

5. We have heard the learned counsel for the parties and have perused the record.

6. It is seen from the findings of the Enquiry Officer that during the enquiry, the complainants identified the four defaulters including the applicant and no cross questions were carried out by the defaulters. Similarly, the other PWs were examined in the presence of the applicant and other defaulters and it is seen that there was no cross-examination by the defaulters. It was also specifically considered by the DCP that the statements recorded during the preliminary enquiry could be

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brought on record when the witnesses were no longer available under the relevant rules of Delhi Police (Punishment and Appeal) Rules, 1980 and after framing the charges, the said charge was also got approved by the competent authority. It is also seen that the defaulter including the applicant submitted the defence statement. After the detailed enquiry, the Enquiry Officer concluded that it had become abundantly clear that the applicant had taken away 8 notes of Rs.500/- denomination from Shri Mahavir Prasad and Virender Nath with Constable Ajaib Singh and had stopped them at the police picket. The Enquiry Officer, therefore, concluded that it had been established that the applicant along with others independently and collectively took away the money from the personal possession of Mahavir Prasad in connivance with each other on the false threat of arresting the complainants. We find that there is nothing on record to conclude that the respondents had not given the applicant any opportunity for either cross-examination or other grounds of defence. There is nothing on record also to suggest that any rules and procedure prescribed in the Delhi Police have been violated in the enquiry. We also find that the disciplinary authority and the appellate authority have given quite a detailed and speaking order in this case. In disciplinary matters the Courts cannot sit in appeal and reappraise the evidence. So long as the decision making process has been carried out in accordance with rules and regulations and so long as there is nothing to suggest that there has been denial of opportunity of defence to the delinquent official, the Courts and Tribunals cannot interfere in the orders passed by the

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disciplinary authority. The law is well laid down on this subject. We need only to refer to the case of U.O.I. & Others Vs. P. Upendra Singh, JT 1994(1) SC 658 and B.C. Chaturvedi Vs. U.O.I. & Others, JT 1995 (8) SC 865. The decision making process cannot be called in question in this case and, therefore, the courts and tribunals cannot also the question the correctness of the decision.

7. In the circumstances, we have no grounds to interfere with the orders passed by the disciplinary, appellate and revisional authorities in this case. This application lacks in merit and is accordingly dismissed. There shall be no order as to costs.



(K. MUTHUKUMAR)  
MEMBER (A)



(DR. JOSE P. VERGHESE)  
VICE CHAIRMAN

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