

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

R.A. No.143/99
In
O.A. NO.2533/96

HON'BLE SHRI R.K. AHOOJA, MEMBER(A)
HON'BLE SHRI S.L. JAIN, MEMBER(J)

New Delhi, this the 30th day of Aug., 1999

Ex-Constable Som Pal Singh No.1744/N
S/o Shri Maha Singh
R/o FC-20, Type I
Tin Murti Police Compound
New Delhi

....Applicant

(By Advocate: Shri Shankar Raju)

Versus

Commissioner of Police
Police Headquarters, I.P. Estate
M.S.O. Building, New Delhi

....Respondent

O R D E R (By Circulation)
[Hon'ble Shri R.K. Ahooja, Member(A)]

The applicant, aggrieved by the penalty of removal from service imposed upon him as a result of the disciplinary enquiry, came before the Tribunal in O.A. No.2533/96. One of the grounds taken by the applicant was that the disciplinary action was ab initio void as it was not in accordance with the Delhi Police (Punishment and Appeal) Rules, 1980 inasmuch as prior approval of the Additional Commissioner of Police had not been obtained as to whether the criminal case may be registered and investigated or a departmental enquiry should be held. Such a prior condition is not required under the proviso if there is no preliminary enquiry. The Tribunal in the impugned order found that there was in fact no preliminary enquiry ordered in connection with the specified allegation.

2. The applicant has now sought a review on the ground that there is an error of fact patent on the

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face of record inasmuch as a preliminary enquiry was conducted by the Assistant Commissioner of Police, Sadar Bazar, New Delhi, who submitted his report on 18.8.1989. In support of his contention, the applicant has also annexed a copy of the report submitted by Shri P.S. Bhushan, Assistant Commissioner of Police, Sadar Bazar, Delhi.

3. We have examined the position carefully. The document annexed by the applicant is in fact an order of suspension. The Assistant Commissioner has stated in the order that on being informed of the alleged misconduct, he had examined the complainant, the person accompanying her and the mother of the complainant on the same day and on examining the circumstances of the case he had come to the conclusion that the applicant was guilty of misconduct. On that basis he ordered the suspension of the applicant.

4. In our view this order does not establish that a preliminary enquiry, as envisaged under Rule 15 of the Delhi Police (Punishment and Appeal) Rules, was ordered and conducted. In fact, in the impugned order itself it was held that the mere recording of a DD report or the victim identifying the police official cannot be deemed to be a preliminary enquiry under Rule 15. After examining this aspect a certain conclusion was reached. Therefore what the review petitioner says is that the conclusion of the Tribunal was wrong. This is not an aspect to be examined in the review jurisdiction.

5. Accordingly, finding no merit, the R.A. is hereby summarily dismissed.

S.L. Jain
(S.L. JAIN)
MEMBER(J)

R.K. Ahooja
(R.K. AHOOJA)
MEMBER (A)