

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

G.A. NO. 1281/97

New Delhi, this the 9th day of October, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

Ved Prakash (375/SB), S/O Shri Bharat
Singh, R/O Village & P.O. Pahladpur
Kiroli, District Sonapat (Haryana).

...Applicant.

(By Advocate: Sh. Shyam Babu)

VERSUS

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

2. The Senior Additional
Commissioner of Police
(Intelligence), Police
Headquarters, I.P.Estate, New
Delhi.

....Respondents.

(By Advocate: None for respondents)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J):

The applicant in this case has assailed orders dated 8.2.1996, Annexure-A and order passed on appeal dated 7.4.1997, Annexure-B.

2. Facts in brief are that the applicant who was working as a Constable in Special Cell, Delhi was sanctioned leave for 30 days w.e.f. 9.12.1994 to 9.1.1995. He further submitted that on 9.1.1995 he fell ill and suffered from some ailment and he sent an information to the authorities concerned and had also asked for extension of leave and it appears that the authorities did not extend his leave. Thereupon, a show cause notice for censure was issued on him on 11.7.1995. The applicant claims that he had duly applied for the same. However, vide order dated

6.9.1995 the order of censure was confirmed vide Annexure-C. But somehow the superior authorities of the applicant were not satisfied and vide Annexure-D, the Senior Additional Commissioner of Police, came to the conclusion that the punishment awarded to the Constable Ved Prakash is too lenient and he was of the view that he had probably managed the medical certificate after the expiry of the leave period to cover up his absence. So the learned Senior Additional Commissioner of Police exercised his powers under Rule 25-B of the Delhi Police (Punishment & Appeal) Rules, 1980 and directed that the applicant be dealt with departmentally for a major punishment and also appointed an Enquiry Officer.

3. In pursuance of that order passed by the Senior Additional Commissioner of Police, the enquiry was held against the applicant and thereafter impugned orders Annexure-A and Annexure-B were passed whereby his service for 5 years was forfeited and his pay was also reduced.

4. The learned counsel appearing for the applicant has submitted that since the order on the basis of which the enquiry had been initiated has been passed by the Senior Additional Commissioner of Police in exercise of his power under Rule 25-B of the Delhi Police (Punishment & Appeal) Rules, 1980 and that order itself is null and void since Rule 25-B has already been held to be ultra vires of the Delhi Police Act, 1978 in view of the judgment delivered by

ku

the Full Bench in the case of HC Raipal Singh V. U.O.I. & Others (OA 77/97 with other connected cases) decided on 14.9.2000 wherein the Hon'ble Full Bench had held that Rule 25-B is ultra vires of the Delhi Police Act, 1978. Under the circumstances, the learned counsel for the applicant further submitted that all actions taken in exercise of the powers under Rule 25-B are void ab initio, since the quashing of the Rule 25-B being ultra vires, has an effect as if Rule 25-B does not exist on the Statute Book. In view of this, possibly no action could have been initiated by the Senior Additional Commissioner of Police in exercise of powers under Rule 25-B of the Delhi Police (Punishment & Appeal) Rules, 1980.

12

5. The learned counsel for the respondents could not advance any arguments against the Full Bench judgment.

6. Keeping in view all the contentions raised by the counsel for the applicant, we are of the considered view that the action of the Senior Additional Commissioner of Police in exercise of his powers under Rule 25-B of the Delhi Police (Punishment & Appeal) Rules, 1980 is altogether null and void since Rule 25-B has already been held to be ultra vires of the Delhi Police Act, 1978 as per the Full Bench judgment referred to above.

Ku

7. Consequently, all the proceedings taken thereafter e.g. initiating the D.E. and passing of the impugned order of punishment are also void ab initio and cannot be sustained.

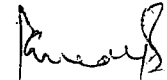
13

8. In view of the above, we have no reservations to allow the OA. Accordingly, we allow the OA quashing the impugned orders dated 8.2.96 and 7.4.97 with all the consequential benefits. No costs.



(S.A.T. Rizvi)
Member (A)

/Rakesh



(Kuldip Singh)
Member (J)