

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

New Delhi, in the 23th day of the October, 2000

Hon'ble Mr. Justice Ashok Agarwal, (Chairman)
Hon'ble Mr. M.P. Singh, Member(A)

OA NO.944/1997, with OA No. 1358/1997 and 1355/1997

O.A. No. 944 of 1997

1. Ex-Head Constable Lal Chand
No. 224.PCR
S/o Shri Munshi Ram
R/o Rz-7A/15, Puran Nagar,
Palam Colony, Gali No.4,
Delhi-110045.

... Applicant

(By Advocate: Shri Arvind Singh)

Versus

1. Union of India through
Lt. Governor Delhi.
NCT of Delhi
Delhi.
2. The Commissioner of Police,
M.S.O. Building, I.P. Estate,
New Delhi-110002.
3. The Additional Commissioner of Police(Operations)
Delhi Police Head Quarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002.
4. Ms. Nuzhat Khan
Thr Additional Deputy Commissioner of Police,
Police Control Room,
Delhi.
5. Inspector Mahesh Kumar
D.E. Cell (Vigilance),
through Deputy Commissioner of Police,
Hqrs.(I), Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002.
6. Mr. Emil Lakra
Astt. Commissioner of Police,
(South West Zone)
Police Control Room,
through Deputy Commissioner of Police,
M.S.O. Building, I.P. Estate,
New Delhi-110002.

.... Respondents

(By Advocate: Ms. Jasmine Ahmed)

O.A. No. 1358 of 1997

1. Ex-Constable Naresh Kumar
S/o Shri Dharam Singh
R/o Village - Kharkhari Nagar,
Najafgarh
New Delhi - 110043.

... Applicant

(By Advocate: Shri Arvind Singh)

Union of India through
 1. Lt. Governor Delhi.
 NCT of Delhi
 Delhi.
 2. The Commissioner of Police,
 M.S.O. Building, I.P. Estate,
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 Police Control Room,
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 D.E. Cell (Vigilance),
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 New Delhi-110002.
 6. Mr. Emil Lakra
 Astt. Commissioner of Police,
 (South West Zone)
 Police Control Room,
 through Deputy Commissioner of Police,
 M.S.O. Building, I.P. Estate,
 New Delhi-110002.

.... Respondents

(By Advocate: Ms. Neelam Singh)

O.A. No. 1355 of 1997

1. Ex. ASI (Driver) Umed Singh
 No. 4107/D,
 S/o Sh. Jugti Ram
 R/o Village-Ladrawan
 P.S. Bahadur Garh,
 District-Rohtak, Haryana.

... Applicant

(By Advocate: Shri Arvind Singh)

Versus

Union of India through
 1. Lt. Governor Delhi.
 NCT of Delhi
 Delhi.
 2. The Commissioner of Police,
 M.S.O. Building, I.P. Estate,
 New Delhi-110002.
 3. The Additional Commissioner of Police (Operations)
 Delhi Police Head Quarters,
 M.S.O. Building, I.P. Estate,
 New Delhi-110002.
 4. Ms. Nuzhat Khan
 Thr Additional Deputy Commissioner of Police,
 Police Control Room,
 Delhi.



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5. Inspector Mahesh Kumar
D.E. Cell (Vigilance),
through Deputy Commissioner of Police,
Hqrs.(I), Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002.

6. Mr. Emil Lakra
Asstt. Commissioner of Police,
(South West Zone)
Police Control Room,
through Deputy Commissioner of Police,
M.S.O. Building, I.P. Estate,
New Delhi-110002.

.... Respondents

(By Advocate: Ms. Jasmine Ahmed)

ORDER (oral)

Hon'ble Mr. M.P. Singh, Member(A)

The applicant has filed this OA under section 19 of Administrative Tribunals Act, 1985 challenging the order dated 20.1.1996 by which punishment of dismissal from service was imposed on the applicant and order dated 1.8.1996 by which his appeal has been rejected.

2. The applicant in OA No. 944/1997 was appointed in Delhi Police as a Constable on 8.1.1963 and was posted at Sagar Pur. He was placed under suspension on the allegations that on 7.7.1995, he was detailed for duty at PCR Van Z-65 from 8.a.m. to 8.p.m. At about 9 a.m., the applicant visited H.No. RZ-4J, Sagar Pur, New Delhi, R/o Sh. Mohan Lal, S/o Shri Shri Ram who with his son and some labourers was carrying out repairs to the old water pipeline connection of his house. The above PCR staff objected to it and stopped the labourers from carrying out the repairs and demanded to show them the permission of the concerned authorities. The applicant permitted them to re-start

work after Shri Mohan Lal (complainant) gave Rs.150/- as bribe to the applicant. An enquiry was conducted against the applicant alongwith two other persons namely Mr. Umed Singh (Ex-ASI, Driver) and Mr. Naresh Kumar (Ex-Constable) (applicants in OA No.1355/97 and OA No.1358/97, respectively) who were also involved in the same complaint. The Enquiry was concluded and the enquiry Officer came to the conclusion that the applicant had misbehaved with Sh. Mohan Lal and taken Rs.150/- as bribe. The applicant was given a copy of the findings of the enquiry officer and asked to submit his representation. The disciplinary authority after taking into account the findings of the Enquiry Officer and the representation of the applicant, dismissed the applicant from service. The applicant, thereafter, filed an appeal and the appeal was also rejected by the appellate authority by order dated 1.8.1996 and thereafter, the applicant has filed the revision on 10.9.1996 which could not be decided till the filing of this OA. Aggrieved by this, the applicant has filed this OA challenging the aforesaid orders.

3. The respondents in their reply have stated that an enquiry was conducted against the applicant alongwith two other persons named above by an officer nominated by the Deputy Commissioner of Police, Delhi on the allegation that on 7.7.95 they were detailed for duty at PCR Van Z-65 from 8.00 a.m. to 8.00 p.m. At about 9.00 a.m., they visited H.No. RZ-4J, Sagar Pur, New Delhi, R/o Sh. Mohan Lal, S/o Sh. Shri Ram, who with



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his son and some labourers was carrying out repairs of the old water pipeline connection of his house. The above PCR staff objected to it and stopped the labourers from carrying out the repairs and demanded to be shown the permission of the concerned authorities. Thereafter, the above mentioned PCR staff permitted them to re-start work after Sh. Mohan Lal (complainant) gave Rs. 150/- as bribe to them. For the above lapse, the applicants in the three OAs were placed under suspension with effect from 13.7.1995. The above act on their part amounted to gross misconduct, negligence and involving themselves in corrupt activities. Hence, this Departmental Enquiry was ordered.

4. Shri Mukesh Kumar was appointed as Enquiry Officer. The E.O. served the summary of allegations, list of witnesses and documents upon the applicant alongwith two other persons named above. The delinquent officials did not admit the allegations and claimed trial. The E.O. examined 4 PWs in the presence of the defaulters giving them full opportunity to cross-examine the PWs, in order to defend themselves. After completion of the prosecution evidence, the E.O. prepared a charge against the defaulters and got the same approved from the disciplinary authority on 28.10.1995. The charge was served upon the applicant alongwith Mr. Umed Singh and Naresh Kumar asking them to submit list of DWs/written defence statements. The delinquents produced two DWs who were examined in their

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presence on 2.11.1995. The delinquents then submitted their defence statement on 8.11.1995. With a view to get some clarification in the statement of PWs, the E.O. examined Sh. Emil Lakra, ACP/West Zone/PCR as a Court witness in the presence of the defaulters giving them full opportunity to cross examine him in order to defend themselves and also to submit their supplementary defence statement. The defaulters submitted their supplementary defence statement.

5. E.O. assessed the statement of PWs, DWs, written defence statement of the delinquents, C.W. and supplementary defence statement of the defaulters and submitted his findings in D.E. Cell on 30.11.1995 concluding therein that the charge against (Ex-ASI (Drv.)), Umed Singh and (Ex-Constable), Naresh Kumar and also applicant who were collectively responsible are proved. Accordingly a copy of the finding of the E.O. was served upon to directing them to submit their representation. The applicant was also heard in O.R. on 8.1.1996. After taking into consideration, the findings of the Enquiry Officer and the representation of the applicant, the disciplinary authority passed an order imposing the penalty of dismissal from service.

6. Heard both the learned counsel for the rival contesting parties and perused the records.



7. During the pendency of the OA, the learned counsel for the applicant has filed MA 1649/2000 by which he has brought to the notice of the Tribunal that the Revisional Authority has set aside the order of Appellate Authority and imposed upon the applicant punishment of reduction in rank from Head Const. to Const. for a period of five years. The other persons involved in this case namely Sh. Umed Singh and Sh. Naresh Kumar have filed separate OA 1355/1997 and OA 1358/1997 respectively. Penalty of dismissal from service was imposed on these two persons alongwith the applicant because all the three persons were involved in the same incident. The charges framed against these persons in aforesaid OAs are also the same and, therefore, we proceed to decide all the three OAs by passing a common order.

8. It is seen from the findings of the enquiry that the charges against the applicants are not proved on the basis of evidence of PW1 and PW4, who while giving their statement before the Enquiry Officer have not stated anything about the fact that the applicant and the other two persons were involved in taking bribe of Rs. 150/-. The Enquiry Officer in his findings has stated that there is nothing against the applicant, but the applicant was in-charge of PCR Van Z-65, he should have control over the other staff, but did not do so and did not interfere with the incident. The Enquiry Officer has submitted his findings on this basis. Due

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to the aforesaid reasons, the charges against the applicant and the other two persons have not been proved and thus it is a case of no evidence.

9. In view of the above facts and reasons that the charges have not been proved against the applicant, the OA is allowed and the orders dated 1.8.1996 and 20.1.1996 are set aside. The respondents are directed

to re-instate the application and other two persons namely Sh. Umed Singh and Sh. Naresh Kumar grant all consequential benefits (except the back wages) within a period of three months from the date of receipt of the copy of this order. OA 1355 of 1997 & OA 1358 of 1997 are also disposed of accordingly. No costs.

(M.P. Singh)
Member(A)

(Ashok Agarwal)
Chairman

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Attested
Ashok Agarwal