

10

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1563/97

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 11th day of July, 2000

A.S.I. Puran Mal No.328/D
Delhi Police

s/o Sh. Jwala Prasad
r/o H.No.215, Gali No.5

Ambedkar Basti

Moj Pur, Delhi - 110 053.

... Applicant

(By Mrs. Avnish Ahlawat, Advocate)

Vs.

1. Union of India
through Lt. Governor of Delhi
through Commissioner of Police
Delhi, Police Headquarters, M.S.O.
Building, I.P.Estate
New Delhi - 110 002.
2. Shri B.K.Gupta
Additional Commissioner of Police
Northern Range, Delhi Police
Police Headquarters
M.S.O. Building, I.P.Estate
New Delhi - 110 002.
3. Shri P.N.Aggarwal
Deputy Commissioner of Police
(Central District)
Delhi Police
Daryaganj
Delhi.
4. Shri M.A.Sayed
Deputy Commissioner of Police/
HQ(I), Delhi Police, Police Headquarters
MS.O.Building
I.P.Estate, New Delhi - 110 002. ... Respondents
(By Ms. Jasmine Ahmad, through Shri Anil Singhal,
Advocate)

O R D E R (Oral)

By Reddy. J.

While the applicant was working as ASI in Delhi Police, it was alleged that on 12.9.1992 when he was posted at Police Station, Paharganj, he along with another falsely implicated Shri Mridul Mohan (complainant) along with his friends under Section 92/93 of the Delhi Police Act. On receipt of a call from PCR that some anti-social elements having some weapons were drinking in a Car, the applicant and

another were deputed to attend the call. When they went to the spot they could not even locate any vehicle. However, inside the house the defaulters found Mridul Mohan and his friends drinking. They entered into the house and conducted the search in the house and arrested the complainant and his friends under Section 92/93 of Delhi Police Act. As the applicant denied the charges, a departmental enquiry was held which culminated in imposing the punishment of withholding of two increments for a period of two years without cumulative effect. The applicant is also aggrieved by the order dated 7.1.1997 removing his name from Lists E-I and E-II. The present OA is therefore filed aggrieved by the order of the penalty as well as the order dated 7.1.1997.

2. The learned counsel for the applicant submits that there is no evidence in this case against the applicant. All the witnesses who were examined during the enquiry have categorically denied about the applicant's alleged harassment, assault or arrest of the complainant. Hence it is contended that the charges are not supported by any evidence.

3. The learned counsel for the respondents, however, submits that the enquiry officer relied on the evidence of witnesses and concluded that the applicant was guilty of the charge. The disciplinary authority having agreed with the findings of the enquiry officer, imposed the punishment. Hence the findings given by the disciplinary authority cannot be interfered with.

4. We have given careful consideration to the contentions raised by the learned counsel on either side.



5. The only charge that is levelled against the applicant was that he and others started conducting search in the house of the complainant though they found that they were drinking inside the house. They caught the complainant and his friends forcibly and took them to the Police Station where they were abused, beaten and humiliated and ultimately arrested under Section 92/93 of the Delhi Police Act. The enquiry officer examined several witnesses. The enquiry officer, after considering the evidence of witnesses, has concluded that the charge of beating, harassment, etc. against the applicant and another has not been proved as the complainant and his colleagues have not stated anything against them. He also suggested that the decision on the finding may be kept pending till the matter of Kalandra under Section 92/93/97 of Delhi Police Act, the trial of which was pending in the court of MM, Delhi, was decided. The learned counsel for the applicant has also drawn our attention to the evidence of PW-I which has been extracted in the enquiry officer's report. A reading of the evidence for PW-I makes it manifest that he has clearly stated that neither the applicant or another did not abuse nor humiliate them. He stated that on the instructions of ACP, Paharganj the applicant and another put them in lock up in the Police Station. It is also stated in the enquiry officer's report that the PW-3, 4, 5, 6 and 9 have also reiterated the version of PW-I. Thus the enquiry officer exonerated the applicant. This is not a case where the disciplinary authority has disagreed with the findings

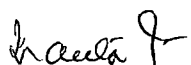
of the enquiry officer. He agreed with his findings. In his order the disciplinary authority did not also mention in that the applicant was one of the persons who harassed the complainant along with other police staff. He only stated that when the statement of the applicant and another that they had arrested complainant as they were directed by ACP, SHO, Paharaganj, has been cross checked with the concerned officers it was found that they had never ordered to arrest them. Hence he stated that the allegations are proved. But it is seen that the ACP has not been examined either by the enquiry officer or by the disciplinary authority to have placed any reliance upon his statement. This cross checking was done behind the back of the applicant. His statement was also not recorded.

6. In the circumstances, we are of the view that there is no evidence in this case to prove the charge against the applicant.

7. The impugned order of the disciplinary authority as well as the appellate authority are therefore quashed.

8. Consequently, the order dated 7.1.1997 removing the name of the applicant from the List of E-I and E-II is also quashed.

9. The OA is accordingly allowed. In the circumstances, there shall be no order as to costs.


(SMT. SHANTA SHASTRY)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

1/10/97