

12

Central Administrative Tribunal, Principal Bench

Original Application No. 1728 of 1997

New Delhi, this the 22nd day of May, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman
Hon'ble Mr. V.K. Majotra, Member (Admnv)

Sh. Vijay Pal Singh, S/o Sh. Charan Singh,
Presently resident of RZ-122, New Roshan
Pura Extn., Najafgarh, New Delhi.

Permanent R/o Vill. Daryapur, P.O. Badli,
P.S. Bahadurgarh, Distt. Rohtak, Haryana.

Presently posted as H.C. Driver 337-A, I.G.I.
Airport South West Distt. New Delhi. - Applicant

(By Advocate -None)

Versus

1. Commissioner of Police, Delhi Police,
Police Head Quarters, I.P.Estate, New
Delhi.
2. Addl. Commissioner of Police, New Delhi
Range, Police Head Quarters, I.P.Estate,
New Delhi.
3. Dy. Commissioner of Police, New Delhi
Distt. Parliament Street, New Delhi.
4. Dy. Commissioner of Police H.Q.(III),
Police Head Quarters, I.P.Estate, New
Delhi.
5. Addl. Dy. Commissioner of Police, New
Delhi Distt., Parliament Street, New
Delhi. - Respondents

(By Advocate Ms. Neelam Singh)

O R D E R (Oral)

By Justice Ashok Agarwal, Chairman.-

By the present OA the applicant seeks to
impugn a memo issued by the Additional Deputy
Commissioner of Police dated 18th March, 1997 whereby a
sum of Rs. 27,508.90p the cost of repairs carried out to
a Government vehicle Canter Mini Bus No. DL-1L-0552,
which had met with an accident at the hands of the
applicant - a Head Constable (Driver). The memo shows
that an ^{amount} ~~is directed to be recovered~~ cost of Rs. 48,626.80p has been spent towards

N. J.

repairs and an amount of Rs.27,508.90p is ^{directed} to be recovered from the applicant.

2. The applicant was proceeded in disciplinary proceedings with the following allegations :-

"Whereas H.C.(Driver) Vijay Pal, No.187/ND (PIS No. 28830150) was detailed for Anti-terrorist patrolling duty on 30.10.94 at 5.45 P.M. with Mini Bus No.DL-IV 0552 along with staff of Anti Terrorist Cell vide D.D. No.16, dated 30.10.94 N.Delhi Distt.Lines, N. Delhi. He was supposed to remain on duty till 11 p.m. but he left the officers/ men detailed for duty at India Gate, at his own sweet will and took the Mini Bus No. DL-IV-0552 unauthorisedly to Nazafgarh Area where the H.C.Driver collided with the said vehicle with pavement and damaged from front side. The vehicle was mechanically inspected by ASI/ Technical who reported, that 14 parts of the said vehicle were damaged due to the said accident.

2. And whereas the above act on the part of HC (Driver) Vijay Pal, No.187/ND amounts to grave misconduct, negligence dereliction and he misused the said Govt. vehicle in his private capacity."

3. The applicant was held guilty of the aforesaid charges and a major penalty of forfeiture of three years approved service permanently entailing reduction of his pay by three stages for a period of three years was imposed on the applicant. The Aforesaid order of penalty has come to stay and the same has not been impugned by the applicant by preferring any appeal or a revision-application.

4. Arising from the very same accident it appears that certain amount was spent towards repairs of the vehicle. The impugned memo in the instant case shows that a sum of Rs.48,626.80p had been spent towards repairs and an amount of Rs.27,508.90p is sought to be recovered from the applicant. As far as the aforesaid memo is concerned, the applicant was not put to notice.

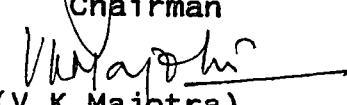
M.J.

The aforesaid order has been issued behind his back and without affording him an opportunity to show cause. The applicant has got knowledge of the same only after an amount of Rs.500/- had been deducted from his salary in April, 1997.

5. How an amount of Rs.27,508.90p has been worked out by way of recovery from the applicant is not reflected in the impugned memo. The aforesaid memo which has been issued without issuing a show cause notice to the applicant and without affording him a reasonable opportunity of being heard is liable to be quashed and set aside on the ground that the same has been issued in utter disregard to the principles of natural justice. We order accordingly.

6. The present OA in the circumstances succeeds. The impugned memo of the 18th March, 1997 is quashed and set aside. It is, however, clarified that it will be open to the respondents, if so advised, to issue a show cause notice to the applicant and pass appropriate orders after following the ^{requisite} principles of natural justice i.e. after issuing a show cause notice and after affording reasonable opportunity of being heard. No order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member (Admnv)