

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1755/97

Monday, this the 15th day of January, 2001.

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Shri Jai Bhagwan, S/O Shri Mir Singh,
R/O 352-E, Munirka Village,
Near Girls School, Post Office,
J.N.U. New Delhi.

..Applicant.

(By Advocate: Shri M.K.Gupta, proxy counsel
for Shri G.D.Gupta)

VERSUS

1. Commissioner of Police,
Delhi, Police Headquarters, I.P.
Estate, New Delhi-2.
2. Addl. Commissioner of Police (Operations)
Police Headquarters, I.P.Estate,
New Delhi.
3. Dy. Commissioner of Police,
IGI Airport, New Delhi.
4. Shri Ram Kishan Inspector,
Enquiry Officer, DE Cell (Vigilance)
Defence Colony, New Delhi.

..Respondents.

(By Advocate: Shri Ram Kanwar)

O R D E R (ORAL)

By Hon'ble Shri S.A.T. Rizvi, M (A):-

Shri M.K.Gupta, learned proxy counsel sought an adjournment on the ground that Shri G.D.Gupta, learned counsel is busy in High Court. After perusing the file, we have passed the following orders on 15.1.2001:-

For the reasons to be separately recorded, the present OA is dismissed without any order as to costs.

2. We now proceed to record our reasons in support of the above order.

[Signature]

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3. On the allegation of extorting a sum of Rs.100/- from an international passenger while posted at the IGI Airport on 6/7.3.95, the applicant, who was then a Constable in Delhi Police, has been charged formally in the following terms:-

"Charge

You, Ct. Jai Bhagwan No.770/A are hereby charged that on the night intervening 6/7.3.95 while performing duty on Belt at X-Ray machine at gate No.7, 8 and 9 in Shift 'A' NITC had extorted Rs.100/- as an illegal gratification from Mrs. Ranjana Kapoor during the course of Security Check of passengers of flight No.AF-177. She made a complaint of this incident to Shri P.S.Narang Operations Officer of Air France, who introduced her to Shri O.P.Yadav Insp. She handed over a complaint to the Inspector and identified you, Ct. Jai Bhagwan No.770/A as you had accepted Rs. 100/- from her which was later on returned to her by you in the presence of Insp. O.P. Yadav and SI Arjun Singh.

The above act on the part of you, Ct. Jai Bhagwan No.770/A amounts to gross misconduct and unbecoming of a police officer which renders you liable to be punished u/s 21 of D.P. Act, 1978."

4. The disciplinary proceedings undertaken have resulted in the applicant's dismissal from service vide disciplinary authority's order dated 15.11.95. These orders were carried in appeal and later in revision. At both these stages, the orders passed by the disciplinary authority have been upheld/affirmed. These are dated respectively 19.1.96 and 4.7.96.

5. The facts of the case briefly stated are that while posted at the IGI Airport, New Delhi at the X-ray Machine Belt, the applicant extorted Rs.100/- by way of illegal gratification from Mrs. Ranjana Kapoor during

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the course of security check of passengers. Mrs. Kapoor made a complaint to one Shri P.S.Narang, Operations Officer of Air France who introduced the complainant to Shri O.P.Yadav Inspector, Delhi Police on duty at the Airport. The complainant identified the applicant who returned the aforesaid sum of Rs.100/- to the complainant in the presence of the aforesaid Inspector and Shri Arjun Singh, SI who also happened to be present. Based on the evidence mainly of the aforesaid four persons, the applicant has been dismissed from service.

6. The applicant has raised a few contentions impugning the order of dismissal. Firstly, according to him, out of six persons listed as witnesses in the list attached to the summary of allegations, only four have been examined by the prosecution leaving out two main witnesses, namely, Mrs. Ranjana Kapoor who is the complainant and Shri P.S.Narang. The fact that Mrs. Kapoor did make a complaint is not in dispute as has been clearly stated by the aforesaid Inspector as well as the SI. According to the respondents, the complainant aforesaid had immediately after the incident in question left by Air France and was not available for detailed investigation immediately after the incident took place. The complainant, according to the respondents, is settled in U.K. and she could not confirm as to when she would visit India next. In the circumstances, she could not be examined as a prosecution witness even though her name figured in the aforesaid list. Shri Narang the other person named by the respondents as a witness, also left his job with Air France and is reported to be living in

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the USA. He could not, therefore, be produced as a witness. The statements made by the aforesaid two witnesses have, however, been brought on record. This is totally in accordance with the Rules 15 & 16 of the Delhi Police (Punishment & Appeal) Rules, 1980.

7. The applicant has next raised the contention that a proper seizure memo in respect of the amount of illegal gratification was not drawn up and similarly, a proper receipt showing that the applicant had returned the aforesaid sum of Rs.100/- to the complainant Mrs. Ranjana Kapoor, had not been prepared. The matter was also, according to him, not brought to the notice of the ACP Incharge immediately and further that the complaint of the aforesaid passenger Mrs. Ranjana Kapoor had not been attested by anyone. A principal witness in this case, namely, Shri O.P.Yadav Inspector has clarified the position with regard to the aforesaid contentions raised by the applicant. From the findings recorded by the enquiry officer, we find that the aforesaid principal witness has unambiguously stated that the sum of Rs.100/- in question was returned to the complainant lady by the applicant in his presence and after receiving the money, she straightaway went to the Aeroplane as the boarding of Air France was then going on without any further action and that due to the shortage of time and the rush of international passengers, he was not able to seize the money (Rs.100/-) and for the same reason, could not prepare a seizure memo. The contention raised that the matter was not reported to the ACP immediately after the event has been controverted by the Inspector (Shri

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O.P.Yadav) who has averred in his statement that a report was in fact submitted to the ACP/Shift. In regard to the authenticity of the written complaint of Mrs. Kapoor, the disciplinary authority has clearly stated that the same has been testified by Inspector (O.P.Yadav) during the course of the departmental enquiry. In the circumstances, the aforesaid pleas advanced by the applicant are found to be untenable and are rejected.

8. We have carefully perused the pleadings of the parties including the findings of the EO and the orders passed by the disciplinary authority, the appellate authority and the revisional authority. We find that the report of the EO/findings read with the order of the disciplinary authority leave no manner of doubt about the truth of the story which forms the basis of the charge levelled against the applicant. In the absence of the complainant herself, the Inspector (Shri O.P.Yadav) and the SI (Shri. Arjun Singh) are the witnesses of the event. Both of them have categorically affirmed that Mrs. Ranjana Kapoor, the complainant had made a complaint forming part of the charge and the sum of Rs.100/- was returned to the complainant lady by the applicant in their presence. The order of the disciplinary authority, we find, is a detailed and speaking order. He has taken pains to go into each and every issue raised by the applicant. The disciplinary authority has rejected the plea advanced by the applicant that the EO did not consider the enquiry report of Shri R.K. Joshi, ACP by saying that the provisions of Rule 15 (iii) of Delhi Police (Punishment & Appeal) Rules, 1980

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prevent the preliminary enquiry file from being made part of the departmental record in the disciplinary case. After the careful consideration of the evidence on record, the gravity of the applicant's misconduct and the overall facts and the circumstances of the case, the disciplinary authority has found the charge of misuse of official position and involvement in corruption/malpractices against the applicant fully proved and we find no reason to interfere with the same.

9. In the totality of the circumstances outlined in the preceding paras, the application, in our view, deserves to be dismissed. We order accordingly. No costs.

S.A.T. Rizvi

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

Ashok Agarwal

(Ashok Agarwal)
Chairman

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