

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 1777/1997

(11)

New Delhi this the 8th day of November, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Ex. A.S.I. Laxmi Narain
S/o late Shri Chandan Singh
R/O House No. 528A/4B
Gali No. 6, Viswas Nagar
Shahdra, Delhi.

... Applicant

(By Advocate Shri S.S.Tiwari)

-versus-

1. Govt. of N.C.T of Delhi
through Chief Secretary
Govt. of NCT of Delhi
Raj Nivas Marg
New Delhi.

2. Addl. Commissioner of Police (S.R)
Police Headquarters
I.P. Estate
New Delhi-2.

3. Dy. Commissioner of Police
South West District.
New Delhi.

... Respondents

(By Advocate Ms. Neelam Singh)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

In disciplinary proceedings conducted against the applicant, who at the material time, was an Assistant Sub Inspector in Delhi Police, a penalty of dismissal from service has been imposed upon him by the disciplinary authority by an order passed on 1.7.1996. Aforesaid order was impugned by the applicant by preferring an appeal. The appellate authority, by an order passed on 19.11.1996 has maintained the aforesaid order of penalty and has dismissed the appeal. Aforesaid orders are impugned in the present OA.

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2. We have heard Shri S.S.Tiwari, the learned advocate appearing in support of the OA. We have also heard Ms.Neelam Singh, the learned advocate who has appeared on behalf of the respondents. We, with their assistance have also gone through the entire material on record.

3. Shri Tiwari has strenuously contended that the present case is a case of no evidence. According to him, none of the witnesses examined in the enquiry has implicated the applicant so as to justify the passing of the impugned order of penalty.

4. In order to examine the aforesaid contention, it would be useful to peruse the charge and the summary of allegations raised against the applicant and thereafter to examine the material evidence on record. As far as the charge is concerned, it is enough to reproduce the summary of allegations which bring out the material allegations which are levelled against the applicant.

"On 12.6.90 at about 3 P.M. when Shri Vimal Kumar R/o House No. 3558, Gali No. 6, Jai Mata Market, Tri Nagar, Delhi was going to sector No. 6 R.K.Puram from Moti Bagh on his scooter DEH/7031 make Priya met with an accident with another Two-Wheeler Scooter near Sangam Cinema and the Rider of other scooter sustained injury. ASI Laxmi Narain, No. 2044/SW reached at the spot and sent the injured person to hospital Sabdarjung by Ambulance. The ASI brought Shri Vimal Kumar Jain to the Police Station alongwith his scooter. At Police Station R.K.Puram, the ASI took Rs. 800/- for the release of Shri Vimal Kumar Jain on Bail. The ASI also did not return Rs. 53/- recovered from the personal search of Shri Vimal Kumar Jain. The ASI further took Rs. 400/- to release the scooter of Shri Vimal Kumar Jain on superdari. He also took Rs. 100/- on behalf of Malkhanawala.

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The ASI demanded Rs. 6000/- to settle the matter at the police station which was not agreed by the complainant Shri Vimal Kumar Jain and thereafter the ASI demanded Rs. 2000/- to loose the case in favour of Shri Vimal Kumar Jain.

The aforementioned acts on the part of the ASI tantamount gross misconduct rendering him unbecoming of a govt. servant in violation of rule 3 (i) (iii) of C.C.S. (Conduct) Rules, 1964 for which he is liable to be dealt with departmentally u/s 21 of Delhi Police Act, 1978."

5. In support of the aforesaid charge as many as 5 witnesses have been examined against the applicant. Applicant in turn has examined 3 witnesses in his defence. As far as the main evidence against the applicant is concerned, the same consists of the evidence of PW-3 Shri Vimal Kumar Jain who is a complainant in the present case. He has deposed that his scooter had met with an accident on 12.6.1990 with another two wheeler scooter causing injuries to the rider of the said other scooter. On the said accident being reported, the applicant who is ASI Laxmi Narain along with a Constable reached the spot. He enquired into the matter and brought the witness to the Police station. He was made to sit there and the ASI had left for Safdarjung Hospital who returned at about 5 P.M. along with the injured person. He was arrested by the applicant and put in lock up. On receiving the information of his arrest, friends of the witness, Shri Hari Prasad Dubey, Shri Davinder Kumar and Shri Ravi Gupta approached the ASI Laxmi Narain and got him released at about 11 P.M. The witness was instructed to produce the driving licence on the next day. He along with Shri Hari Prasad Dubey attended the ASI on the next day while ASI Laxmi Narain demanded Rs. 500/- for releasing the scooter. He paid Rs. 400/- to the

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ASI and was asked to come in the evening as the S.H.O. was not available at that time in the Police Station. Shri Harihar Prasad Dubey got released the scooter in the evening. The witness further deposed that when he was in the lock up, Shri Harihar Prasad Dubey told him that he had paid Rs. 800/- to the police for getting him released. The witness was having Rs. 53 or 54/- along with some papers with him at the time of arrest which were taken by the ASI but the same were not returned to him till the date of his deposition. He also demanded Rs. 6000/- for finishing the total case or Rs. 2000/- for finishing case in an appearance before the Magistrate but he was not having such amount at that time. He also took Rs. 100/- for handing over to Malkhana incharge. Later on, he submitted an application to DCP of the District after mentioning the whole incident as per Ex PW-3/A. His statement was recorded by an officer in this regard which is at Ex. PW-3/B.

6. On cross examination by the applicant, the witness deposed that he could not identify him as the same Police officer who was paid money by him. He was in uniform and his name was Laxmi Narain. He was helpless at that time and all police officers were in uniform, thus he could not say that present ASI Laxmi Narain was the same police officer or otherwise. He confirmed the name of that officer from the constable present in the Police station who told his name as Laxmi Narain. On being questioned by the enquiry officer, the witness deposed that he was not saying wrong knowingly but it was truth that he could not

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identify the police officer who was paid money but it was right that he had paid money.

7. We have considered the aforesaid evidence of the witness in the light of the criticism advanced by Shri Tiwari and we are constrained to hold that it is not possible to hold that this is a case of no evidence. Aforesaid admissions of the witness clearly indicate that he was not in a position to identify the applicant during the course of his deposition. It cannot be overlooked that ~~the~~ ^a period of almost a year has gone by between the date of the incident and the date of his deposition. However, the witness is certain about the fact that the money was paid by him to the ASI Laxmi Narain and that he had ascertained the name of the ASI from the a constable who was present in the Police station who told him that his name was Laxmi Narain. In the circumstances, an inference is inescapable that the aforesaid witness has ~~not~~ paid the aforesaid amount to the applicant. Aforesaid witness, we find is a straightforward and honest witness who has deposed truthfully when he stated that he was unable to identify the applicant during his deposition. However, we have no reason to doubt his testimony that he had paid the money to ASI Laxmi Narain, present applicant whose name was confirmed by him through a Police constable present at the Police station. The witness is positive in his assertion that the amount has been paid. No other Police officer has been named as having been paid the amount. The only person named is ASI Laxmi Narain who is the applicant in the present case.



8. This is not the only material which is on record. We have on record the report of the preliminary enquiry of 30.11.1990. The same was duly served upon the applicant. In the enquiry, the evidence of Shri Vimal Kumar Jain as also Shri Hari Prasad Dubey was recorded and they have squarely implicated the applicant in their deposition. Aforesaid evidence has found favour with the enquiry officer, the disciplinary authority as also the appellate authority. These are findings of fact which are not liable to be interfered with by the Tribunal. We are not a court of appeal and it is impermissible for us to reappreciate the evidence and arrive at a finding contrary to the one which has found favour with the aforesaid authorities. Aforesaid findings, in the circumstances, cannot be successfully assailed in the present proceedings.

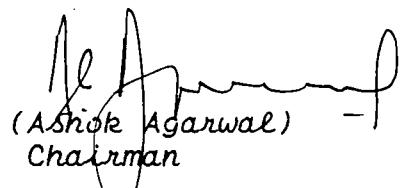
9. Present OA in the circumstances, we find is devoid of merit. The same is accordingly dismissed.

No costs.



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

sns



(Ashok Agarwal) -
Chairman