

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 1800/97

New Delhi, this the 20th day of August, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

(16)

In the matter of:

Sham Singh,
s/o Shri Hushiar Singh,
r/o village Shakarpur,
P.O. Kiranpur,
P.S. Jahangirabad
Bullandshahar (UP). Applicant

(By Advocate: Shri Shyam Babu)

Vs.

1. The Commissioner of Police, Delhi Police Headquarters, I.P. Estate, New Delhi
2. The Additional Commissioner of Police, (New Delhi Range), New Delhi, Police Headquarters, I.P. Estate, New Delhi. Respondents

(By Advocate: Shri Surat Singh)

O R D E R

delivered by Hon'ble Shri T.N. Bhat, Member (J)

The applicant who was working as Inspector in Delhi Police has assailed the order dated 30.7.1996 passed by respondent no. 2 by which he has been dismissed from service as also the appellate order dated 17.5.1997 passed by respondent no. 1 by which the appeal preferred by the applicant was rejected.

Shyam
20.8.98

2. The charge against the applicant was that he had acted in a negligent and careless manner in handing over an amount of Rs. 3,77,039/- to an imposter which amount was payable to the staff posted at Police Station, Nandnagri as compensatory pay. It is alleged that before entrusting the aforesaid amount to a person posing to be a representative from the aforesaid police station, the applicant did not take necessary care to get that person properly identified.

3. After holding an enquiry through Shri H.P.S. Virk, the Enquiry Officer, the disciplinary authority, namely, the Additional Commissioner of Police passed the impugned order of punishment. Enquiry Officer in his report held the charge established against the applicant.

4. The impugned orders have been assailed by the applicant on a number of grounds but during the course of his arguments the learned counsel for the applicant pressed only two grounds. The first ground is that the disciplinary authority has not recorded any finding to the effect that the act of the applicant amounted to gross misconduct and that the applicant was rendered unfit for being retained in Police Service which, according to the learned counsel for the applicant, is necessary under Rule 8 of the Delhi Police (Discipline & Appeal) Rules. In this regard he relies upon the judgement of the Apex Court

llym

in Dalip Singh vs. Union of India & Anrs. wherein the judgement of the Tribunal quashing the order of dismissal passed against Dalip Singh without recording the aforesaid finding under Rule 8 was upheld. On going through the impugned order of punishment we find that the only finding recorded by the disciplinary authority is that the case is one of gross negligence on the part of the applicant who disbursed the amount of more than 3,00 lacs without confirming the identity of the person to whom the payment was made. The disciplinary authority further goes on to state as follows:

(18)

"I have carefully considered the gravity of misconduct in the light of his service record and plea for mercy. This case involves negligence for such gross proportions that a lenient view would defeat the ends of justice."

5. There is no real finding that the action of the applicant amounted to gross misconduct rendering him unfit for service in Delhi Police.

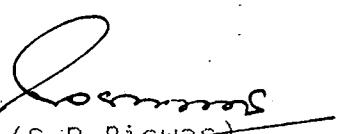
6. That apart, the respondents do not seem to have taken into account the fact that the applicant was due to retire on 31.7.1996 i.e. only one day after the date when the aforesaid penalty was imposed upon him. While considering the question of quantum of punishment this important fact ought to have been taken into account. As regards merits of the findings recorded by the Enquiry Officer and the disciplinary authority we find no legal

flaw in the manner in which the proceedings were conducted. We also do not find this case to be one of no evidence. Therefore, we are convinced that the findings are not liable to be interfered with by the Tribunal. 19

7. But so far as the question of quantum of punishment is concerned we consider this a fit case where the disciplinary authority should re-consider the matter in the light of the observations made by us hereinabove and pass a fresh order.

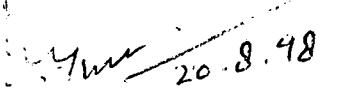
8. We accordingly partly allow this O.A., quash the impugned orders to the extent indicated above and hereby remit the matter to the disciplinary authority to reconsider the question of quantum of punishment to be awarded to the applicant and pass a fresh order. This shall be done within a period of two months from the date of receipt of a copy of this order. Needless to say that if the applicant still feels aggrieved, it shall be open to him to file a fresh O.A., if so advised.

9. With the above order this O.A. is disposed of, leaving the parties to bear their own costs.


(S.P. Biswas)

Member. (A)

na


20.8.98
(T.N. Bhat)

Member (J)