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OA-2217/97

Kuldeep Singh  
vs.  
Union of India.

(1)

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23-9-1997

Present - Shri R. K. Kaushik, Counsel for  
The applicant.

Adjourned to 25-9-1997.

B. C.

pr  
C. O. (CI)

25-9-1997

Present - Shri R. K. Kaushik, Counsel for the  
applicant.

Bench - Honble Chairman.  
Honble Shri N. Sahu, AM.

Arguments concluded. Orders on  
admission reserved.

By Order

pr  
Court Officer (CI)

LATER ON:

- The applicant was A.S.I. since 1990 in Delhi Police. In a common disciplinary proceeding against him and against one A.S.I.,

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Shiv Kumar, it was alleged that the applicant was directed to make passport enquiries about one Smt. Meenu, r/o 220, Sector -V , R.K.Puram, New Delhi and in respect of Smt. Maninder Kaur, r/o JA/2, Rajouri Garden, New Delhi. It was further alleged that he gave false information that Smt. Meenu and Smt Maninder Kaur resided for two years at their given addresses. The names of referees given by him were also alleged to be bogus. The Inquiry Officer found the charges proved and accordingly the impugned order of dismissal from service was passed against him by the disciplinary authority. That order was affirmed in appeal by the appellate authority. The learned counsel submitted that what was alleged in the charge (Annexure O) was not found established in its appellate order. The relevant portion of the appellate order brought to our notice reads as follows:

"ASI Kuldeep Singh has stated that although Mrs. Maninder Kaur, whose verification he made was not staying at the given address, as has been revealed later on in the enquiry, but when he visited the house, she was present and the two referees were also staying there. But the charge against him is in two parts. The first part says that Mrs. Maninder Kaur, whose verification he made was found to be a bogus person and the second part of the charge states that the 2 referees whom he mentioned were also bogus. So, as per his version, the second part is not correct and the two referees, i.e., Mrs. Manju Luthra and Ram Singh, who happened to be the driver of Mr. Kamal Luthra, were actually staying there and he was informed by the referees that Mrs. Maninder Kaur happens to be their tenant. The evidence on record, i.e the statement of Insp. Vipin Kumar, PW-2 shows that the Luthra family was actually staying there on the second floor of JA/2, Rajouri Garden. The voter list as well as letter No.11626/DCP/Lic., dated 30.7.96 also show that the Luthra family was actually staying there some time ago and that the husband of Mrs. Manju Luthra was holding an arms licence. Mrs. Manju Luthra was also holding a passport made at the given address. However, as per his version, the second referee has now gone underground

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since he was the driver of the Luthra family which has also shifted from there."

We find nothing in the aforesaid passage or at any other place in the appellate order to show that the appellate authority found the allegations or the finding of the Inquiry Officer to be incorrect. The learned counsel wanted us to go through the evidence of witnesses, defence of the applicant and other documents on record at the inquiry proceedings. However, we are of the view that we cannot go into those materials and as a court of appeal return our own findings. In **GOVERNMENT OF TAMIL NADU vs. A. RAJAPANDIAN**, JT 1994 (7) SC 492, it was held that the Tribunal has no jurisdiction to sit as a court of appeal over a decision based on the findings of inquiry authority in disciplinary proceedings. In other decision of the Supreme Court **U.O.I. vs. PARMA NANDA**, 1989 (1) SCALE 606, it was held that the Tribunal has no power to modify the penalty awarded to the delinquent official when the findings recorded as to his misdemeanour are supported by legal evidence. We are, therefore, of the view that the present O.A. has no merit. Accordingly it is hereby summarily dismissed.

*Kon*

**(K.M.AGARWAL)**  
CHAIRMAN  
25.9.1997

*Karandhara*

**(N.SAHU)**  
MEMBER (A)  
25.9.1997.