

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2508/97

New Delhi this the day of 22nd May 2000

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN  
HON'BLE MR. V.K. MAJOTRA, MEMBER (A)

Om Prakash Verma  
S/o Shri Ganga Prasad  
R/o D-38, Single Storey  
New Police Line  
Kingsway Camp  
New Delhi.

...Applicant  
(By Advocate: Shri S.K. Gupta)

Versus

1. Govt. of N.C.T.  
through Commissioner of Police  
I.P. Estate, Police Headquarters  
New Delhi.
2. Senior Addl. Commissioner of Police  
A.P. & T., Police Headquarters  
I.P. Estate, New Delhi.
3. Deputy Commissioner of Police  
Third Battalion  
DAP, Delhi
4. Shri Arjun Singh  
Assistant Commissioner of Police  
Third Battalion, DAP  
(Inquiry Officer), Delhi.

...Respondents

(By Advocate: Shri Anil Singhal proxy for  
Ms. Jasmine Ahmed)

ORDER (Oral)

By Mr. Justice Ashok Agarwal, Chairman

Applicant who is an Assistant Sub Inspector of Police alongwith one Head Constable Bhagat Singh have been proceeded against departmentally with the following charges:-

1. On 25.4.95 both the defaulters quarreled with each other over providing of illegal facilities to UTP Sabu Chacko.

2. HC Bhagat Singh, No. 2028/DAP and ASI Om Prakash No. 2963/D write D.D. entry No. 6 & 41 respectively at the guard AIIMS & Safdarjung Hospital on 25.4.95 making allegation against each other for acceptance of bribe from relatives of UTP Sabo Chacko.

3. HC Bhagat Singh No. 2068/DAP contravened C.C.S. (Conduct) Rule, 1965 and P.P. Rule-22.50 by making entry against Sr. Officers without any proof.

4. ASI Om Prakash No. 2963/D should not have written D.D. No. 41 dated 25.4.95 with reference to the D.D. entry lodged by the HC making entry No. 41 dated 25.4.95 is grave misconduct and violation of P.P. Rules-22.50".

2. The Disciplinary Proceedings were entrusted initially to Inspector O.P. Gautam, who prepared the summary of allegation and served a copy<sup>es</sup> thereof to the aforesaid defaulters alongwith lists of Prosecution Witnesses and documents. The same was duly served on the defaulters on 26.8.95. While receiving the summary of allegations, the defaulters did not plead guilty. Enquiry Officer examined ~~one~~ <sup>nine</sup> ~~one~~ Prosecution Witnesses in the presence of both the defaulters. Ample opportunity was provided to both of them. Present applicant availed of the opportunity and cross examined the ~~aforesaid~~ witness~~es~~. The enquiry was thereafter transferred to Shri Arjun Singh, ACP. Aforesaid Enquiry Officer thereafter recorded the statement of <sup>eight</sup> ~~three~~ Prosecution Witnesses in the presence of both the defaulters. Both the defaulters duly cross examined the said witnesses based on the aforesaid evidence. The Enquiry Officer framed a charge against both the defaulters and after getting it approved from the Disciplinary Authority, the same was served on the defaulters on 30.3.96. Both the defaulters were directed to produce their defence witnesses. HC Bhagat Singh, No. 2068/DAP only produced HC Vijay Pal i.e. defence witness whose evidence was duly recorded.

*W.K.*

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Applicant did not produce any defence witness. Both the defaulters thereafter submitted their defence statements to the Enquiry Officer. After taking into consideration the defence statement of the defaulters as also the facts and evidence which had come on record, the Enquiry Officer submitted his findings to the disciplinary authority concluding therein that the charge against the defaulters stood proved. A copy of the findings of the Enquiry Officer were thereafter served upon the defaulters vide office order dated 12.6.96 with a direction to submit their written representation against the findings of the Enquiry Officer. Both the defaulters i.e. the applicant herein as also HC Bhagat Singh duly submitted their written representation against the findings of the Enquiry Officer. The Disciplinary Authority on consideration of the entire material has concluded that the charge against both the defaulters stood proved. He has accordingly proceeded to impose the following penalty:-

"The charge against both the defaulters is proved. I, Naresh Kumar, DCP/III Bn. DAP do hereby order that one years approved service of ASI Om Prakash No. 2963/9 and HC Bhagat Singh, No. 2068/DAP (4006/DAP) is forfeited permanently for a period of five years entailing reduction in the pay of ASI Om Prakash, 2963/D from Rs. 1530/- P.M. to Rs. 1500/- P.M. in the scale of Rs. 1320-30-1500-EB-40-2040 and the pay of HC Bhagat Singh, 2068/DAP (4006/DAP) from Rs. 1300/- P.M. to Rs. 1270/- P.M. in the time scale of Rs. 975-25-1150-EB-30-1660 with immediate effect. It is further directed that they will not earn increment of pay during period of reduction and on the expiry of this period the reduction will have the affect of postponing his future increment of pay. Their suspension period from 25.4.95 to 12.2.96 is

treated as 'Not Spent on duty' for all intants and purposes and the pay and allowances will be paid".

3. Aforesaid order was carried by the applicant in appeal and by an order passed on 8.5.97 the Appellate Authority has affirmed the aforesaid order of the Disciplinary Authority and has dismissed the appeal. Aforesaid orders are impugned in the present O.A.

4. We have perused the entire material that has been placed on record and we find that the impugned order of penalty is fully borne out by the material on record. The enquiry in question has been conducted against both the defaulters. This is a case where each of the defaulter was accusing the other of misconduct. No prejudice can be said to have been caused by holding joint enquiry as it is not a case ~~on the other hand of~~ <sup>where</sup> a defaulter <sup>has</sup> claiming a right to cross examine the other defaulter, which right is denied to him. Each of the applicants have duly participated in the disciplinary proceedings. ~~Each of them~~ <sup>They</sup> have cross examined the Prosecution Witnesses. HC Bhagat Singh has examined the witness <sup>in his</sup> defence. Each of them have cross examined the prosecution witnesses and have submitted their written statements. <sup>a</sup> ~~Principles of natural justice have been duly complied with~~ <sup>therefore</sup> The ~~same impugned order~~ cannot be successfully assailed in the present O.A.

*M.A.*

5. It is strenuously contended by Shri S.K. Gupta appearing on behalf of the applicant that the disciplinary proceeding stands vitiated

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on account of non-supply of the preliminary Enquiry Officer's report which has been exhibited as P.W. 4(A). The said report has been brought on record through PW-4 who is the author of the report. Aforesaid PW-4 has been duly cross examined by the applicant during the enquiry. In our view non-furnishing of the preliminary report ~~board~~ <sup>evidence brought on record in the</sup> will not throw over the entire, disciplinary proceedings, ~~as~~ that is not the only evidence which has been taken into account for holding the applicant guilty of the charges. The charges are well borne out by the other evidence on record. In the circumstances, even if we ignore the aforesaid preliminary enquiry report the same will not disturb the findings of guilt which is fully borne out by the other evidence on record. Aforesaid contention in the circumstances is rejected.

6. <sup>In the present O.A.</sup> We cannot re-appreciate the evidence and come to ~~the~~ findings other than arrived at by the Enquiry Officer, Disciplinary Authority as also the Appellate Authority. Present O.A. in the circumstances, we find, is devoid of merit. The same is dismissed. No order as to costs.

V.K. Majotra

(V.K. MAJOTRA)  
MEMBER (A)

A. Agarwal

(ASHOK AGARWAL)  
CHAIRMAN

cc.