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Central Administrative Tribunal, Principal Bench

Original Application No.2691 of 1997

New Delhi, this the 22nd day of May, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman
Hon'ble Mr. V.K. Majotra, Member (Admnv)

H.C. Kanwar Pal, No. 3910/DAP, S/o Sh. Giriraj Singh, R/o D-33, Police Lines, Model Town, Delhi.

- Applicant

(By Advocate Mrs. Sumedha Sharma through proxy counsel Shri Anil Singhal)

Versus

1. Commissioner of Police, P.H.Q., I.P. Estate, M.S.O. Building, I.T.O, New Delhi

2. Dy. Commissioner of Police, IV Bn. DAP, Delhi, Kingsway Camp, New Police Lines, New Delhi-110009.

3. Sr. Additional Commissioner of Police, (A.P.&T.), P.H.Q., I.P. Estate, M.S.O. Building, I.T.O., New Delhi.

- Respondents

(By Advocate Shri George Parackin through proxy counsel Shri J.A. Choudhary)

O R D E R (Oral)

By V.K. Majotra, Member (Admnv) -

The applicant has challenged order dated 23.8.1996 by which respondent no. 2 Deputy Commissioner of Police, IV Bn. DAP, Delhi has imposed upon the applicant punishment of forfeiture of one year approved service permanently for one year entailing reduction in pay and further that he would not earn increment of pay during the period of such reduction and also that his future increments of pay would be postponed. The applicant has also assailed order dated 24.10.1996 in appeal and order dated 10.9.1997 in revision whereby the order of the disciplinary authority dated 23.8.1996 has been upheld.

2. While posted at P.S. Kalyanpuri it is alleged that the applicant had misbehaved with Inspector

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Narinder Singh, Addl. SHO, Kalyanpuri on 29.12.1994 when the said Addl.SHO was discussing about the investigation of FIR No.539/94 under Section 408 IPC with SI Khushal Singh in his office. Inspector Narinder Singh had recorded the detailed facts vide DD No.13A dated 29.12.1994, PS Kalyanpuri at 6.30 p.m. He also misbehaved with ASI Subhash Chand on 24.12.1994 and threw the 'Rukka' sent by him for registration of a case under the Excise Act. A DE was initiated against him. According to the applicant the enquiry officer in his report held that the allegations against the applicant "never stand proved," however, the enquiry officer held the applicant partly guilty. The applicant has taken exception to imposition of a major penalty of forfeiture of one year approved service permanently on the basis of the enquiry report in which the applicant was held partly guilty, even though the guilt had not been proved by the enquiry officer. According to the applicant his appeal against the penalty was rejected without application of mind and proper scrutiny of record. The revision-application of the applicant was also rejected by the revisional authority. The applicant has averred that although it is a case of no evidence, he has been inflicted a major penalty of forfeiture of one year approved service permanently. The applicant has sought quashing of the impugned order dated 23.8.1996, 24.10.1996 and 10.9.1997.

3. In their counter the respondents have stated that the disciplinary authority i.e. the Deputy Commissioner of Police, IV Bn. DAP, Delhi had imposed the penalty on the applicant after careful consideration

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of the facts and evidence on record. The respondents have contended that the allegation of misbehaviour against Addl.SHO has been proved from the evidence of PW-5. They have stated that there is evidence and material available on record holding the applicant guilty of the charge of misbehaviour. They have further contended that the disciplinary authority has awarded the punishment to the applicant after going through the entire record and observing the principles of natural justice.

4. We have perused the material available on record carefully.

5. In the enquiry report the enquiry officer has concluded that "the deposition of the SHO and ACP^U are contradictory." No other PWs have deposed against the defaulter HC Kanwar Pal. Depositions of SHO and Addl. SHO are pointing to indicate differences among them. For want of any other evidence on record, though nothing could be proved in toto against the defaulter HC Kanwar Pal, however, origination of DP No. 13-A dt. 29.12.1994 ASI Kalyan Puri indicate itself that the defaulter H.C. Kanwar Pal misbehaved with the Addl.SHO. And as yet defaulter H.C.Kanwar Pal is partly held guilty due to his misbehaviour with Addl.SHO Sh.N.S.Chouhan". The enquiry report has not brought out any evidence in support of the allegation. Still, the enquiry officer has gone on to conclude that the applicant is partly held guilty. Based on such an enquiry report the disciplinary authority, the appellate authority and the revisional authority have passed/ upheld the order of punishment against the applicant. From the material available on file, we are inclined to

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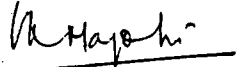
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agree with the applicant that it is indeed a case of no evidence and the respondents have without any basis gone on to impose the penalty of forfeiture of one year approved service permanently for one year entailing the reduction in pay of the applicant and further that he would not earn increment of pay during the period of such reduction and that it would also postpone his future increments of pay.

6. In the light of the above discussion and reasons the O.A. succeeds. The impugned orders dated 23.8.96, 24.10.1996 and 10.9.1997 are quashed and set aside with all consequential benefits. No order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member (Admnv)

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