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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.807/1997

New Delhi, this 27th day of September, 2000

Hon'ble Shri Justice Ashok Agarwal, Chairman  
Hon'ble Shri M.P. Singh, Member(A)

Subhash  
H.No.6, Dr.B.R.Ambedkar Colony  
Vill & PO Kherra Khurd  
Delhi-82

.. Applicant

(By Shri Shankar Raju, Advocate)

versus

Union of India, through

1. Secretary  
Ministry of Home Affairs  
New Delhi
2. Sr. Addl. Commissioner of Police  
Armed & Training  
Police Hqrs., New Delhi
3. Dr. Commissioner of Police  
IIInd Bn, DAP, KW Camp, Delhi .. Respondents


(By Shri A.K.Chopra, through Shri R.K.Singh, proxy  
counsel)

ORDER(oral)

By Shri M.P.Singh

Applicant has filed this OA challenging the order dated 4.11.96 passed by R-3 whereby he has been dismissed from service and order dated 15.1.97 of the appellate authority by which his appeal against the punishment order has been rejected.

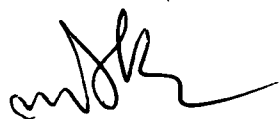
2. Brief facts of the case, as stated by the applicant, are that while working as Constable in Delhi Police he was falsely implicated in case FIR No.168/92 u/s 363/376 IPC registered on 3.6.92 at PS/Narela. He was placed under suspension on 5.6.92. Thereafter, he was dismissed from service, without holding DE, on 9.6.92. Criminal case against him after evidence was concluded and he was honouably acquitted of the charge.



3. Aggrieved by the dismissal order, applicant filed OA 2194/94 in Tribunal. The Tribunal vide its order passed on 24.4.95 quashed the dismissal order. Applicant was ordered to be reinstated with the observation that in case the DCP was of the considered view that the acquittal of applicant was a result of the applicant's winning over the witnesses this order would not stand in the way of his proceeding against the applicant as provided in Rule 12 of the Delhi Police (Punishment & Appeal) Rules, 1980 (Rules, for short).

4. Pursuant to this the applicant was reinstated. After a perusal of the judgement of ASJ, Delhi, the disciplinary authority (DA, for short) felt that the complainant was won over by the defaulter-applicant. Therefore DE was ordered by the DA under Rule 12 of the Rules. Enquiry Officer (EO, for short) submitted his finding on 20.9.96 holding the applicant guilty of the charge. A copy of the enquiry report was furnished to the applicant, who submitted his representation on 23.10.96. After taking into account the findings of the EO and carefully considering the submissions made by the applicant in his representation, the DA imposed the penalty of dismissal from service on the applicant and the period of suspension from 5 to 8.6.92 was treated as period not spent on duty. Applicant's appeal against this order was rejected by the appellate authority on 15.1.97. Aggrieved by this, the applicant has filed this OA.

5. We have heard the rival contentions of the contesting parties.



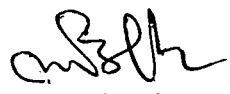
6. From the records placed before us, we find that the charge against the applicant stood proved. The EO concluded the enquiry stating that the complainant (Kumari Leena) has been won over by the defaulter-applicant, though she did not depose the true fact before the learned ASJ, Delhi. A perusal of the findings of the EO would reveal that PW-3 (father of the complainant) deposed during the course of DE that "on the night of 3/4.6.92 he had gone to PS/Adarsh Nagar, Delhi along with his daughter Kumari Leena who had gone from the house. Since the previous day, Kumari Leena had told him that she was taken by Const. Subhash of Delhi Police to Vasant Vihar where he had raped her against her will. He had also lodged a missing report to this effect at PS/Adarsh Nagar, Delhi. She told him that Cons. Subhash had taken her and left at Azad Pur the same day. His daughter Kumari Leena had got registered a case FIR No.168/92 u/s 363/376 IPC, PS/Adarsh Nagar, Delhi and the investigation was handed over to SI Prem Chand Kausal who had recorded his statement Ex.PW 3/A on 5.6.92. SI Prem Chand Kausal had asked Constable Subhash present here on his pointing out and his supplementary statement was also recorded by the SI ex PW 3/B. The defaulter was given an opportunity to cross examine this witness but he did not avail it".

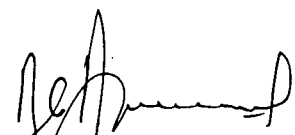
7. We find that the DE against the applicant has been held in accordance with rules and instructions on the subject. Applicant was given full opportunity to defend his case. EO held that the charge against the applicant stood proved. A copy of enquiry report was furnished to the applicant, who submitted his representation. The DA taking into consideration the submissions made by the applicant in response to the findings of the EO passed a detailed and



speaking order. It is a settled law of the apex court that the Tribunal cannot act as an appellate authority over the findings of the DA and reappreciate the evidence adduced during the course of the enquiry proceedings. We do not find any infirmity in the procedures followed. Therefore we are not inclined to interfere with the impugned orders.

8. In the result, we find the OA is devoid of merit and deserves to be dismissed. We do so accordingly. No costs.

  
(M.P. Singh)  
Member(A)

  
(Ashok Agarwal)  
Chairman

/gtv/