

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 289/1997
O.A. No. 420/1997
O.A. NO. 943/1997

New Delhi this the 29th day of May, 2000.

**HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRIMATI SHANTA SHAstry, MEMBER (A)**

(1). OA NO. 289/1997

Ex Head Constable Dev Dutt,
S/o Shri Bhikka Ram,
R/o Bikaner, Police Station Rewari,
District Rewari,
Haryana

(2). OA NO. 420/1997

Ex Constable Majid Khan,
S/o Shri Karim Khan,
R/o Village Khadiray,
Post Office Brang
Police Station Sarka Ghat,
District Mandi,
Himachal Pradesh.

(3). OA NO. 943/1997

Ex Head Constable Ajaib Singh
S/o Shri Dalel Singh,
R/o 11634-74, Avenue, Municipality of Delta,
British Columbia,
V4C, 1E8, Candda,
through his attorney,
Shri Gambhir Singh Rana

.....Applicants
(in all the OAs)

(Shri Deepak Pandey, counsel for applicants in all the
three OAs.)

-Versus-

1. Union of India through
Lt.Governor of Delhi, through
Commissioner of Police, Delhi
Police Headquarters,
M.S.O. Building,
I.P.Estate,
New Delhi-110002.
2. Additional Commissioner of Police
(Northern Range), Delhi Police Headquarters,
M.S.O. Building, I.P.Estate,
New Delhi-110 002.
3. Shri A.K. Patnaik,
Additional Deputy Commissioner of
Police (Central District)
Delhi Police, Headquarters,
M.S.O. Building,
I.P.Estate,
New Delhi-110 002.



Shri S.B.S.Tyagi,
Assistant Commissioner of Police/Karol Bagh
Enquiry Officer,
through Dy.Commissioner of Police/HQ (I),
M.S.O. Building, Police Headquarters,
I.P.Estate,
New Delhi-110002.

... Respondents
(in all the OAs)

(Shri Harbir Singh, counsel for respondent No.1 in
all the three OAs.)

(Shri Harbir Singh, proxy counsel for Ms.Neelam Singh
and Ms.Jasmine Ahmed, counsel for respondents 2 &3 in
all the three OAs.)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

As the aforesaid three OAs raise similar
questions of law and fact, they are being disposed of
by this common order.

2. Disciplinary proceedings were conducted
against the applicants herein and one Constable Shish
Ram on the following allegations:-

"that while they were posted at
P.S.D.B.G.Road and detailed for picket and
patrolling duty at Rani Jhansi Road, they came
across Sh.Mahabir Prashad s/o Ram Avtar
Aggarwal R/o 4-F-4, NPH Road, Jodhpur (Raj.)
alongwith his friend Virender Nath s/o Sh.Ram
Nath, H.No.11/82, Chanpasera Road, Jodhpur
(Raj.). who had come to Delhi in connection
with some business. They came to see picture
at Liberty Cinema for night show. After seeing
the picture at about 1 P.M. when they were
going back to their hotel on a TSR, they were
stopped by the picket staff on duty i.e. by HC
Ajaib Singh No.102/C and Const. Majid Khan
No.370/C, 2033/C. HC Dev Dutt No.242/C and
Const. Shish Ram No.686/C who were on Motor
Cycle duty were also present there. Const.
Majid Khan No.370/C, 2033/C took Mahabir
Prashad and Virender Nath inside the police
booth at Rani Jhansi Road, New Rohtak Road.
Const. Shish Ram No.686/C was already sitting
inside the police booth. They started taking
search saying that they were coming from Kamal
Restaurant. Const. Shish Ram No.686/C took
out Rs.4000/- in denomination of Rs.500/-
notes(8 notes). When they asked why they were
being subjected to such harassment as they had
not committed any crime, the above police
personnel threatened them that in case they
were arrested they would have to spend
Rs.10,000/- each for release on bail. After
taking Rs.4000/- they were allowed to go. On
reaching the Hotel Sh.Mahabir Prashad informed
the PCR about this incident which was brought
to the notice of the then DCP/centrally Administered
District.



who, in turn, directed Sh. Deepender Pathak, ACP/UT, to look into the matter. Sh. Deepender Pathak, ACP/UT alongwith Mahabir Prashad came to picket Rani Jhansi Road and Mahabir Prashad identified HC Ajaib Singh No. 102/C and Const. Majid Khan No. 370/C, 2033/C. Sh. Deepender Pathak, ACP/UT also conducted a personally search of HC Ajaib Singh No. 102/C and recovered 8 notes of Rs. 500/- denomination each from his pocket and Rs. 1600/- was also recovered from his other pocket which again he could not account for satisfactorily. Deepender Pathak, ACP/UT gave message on wireless and called HC Dev Dutt No. 242/C and Const. Shish Ram No. 686/C in the police station where they were also identified by Mahabir Prashad. They were placed under suspension w.e.f. 10.6.92 vide this office order No. 9084-91/HAP (AC-II)/C, dated 10.6.92. " 10

3. An enquiry officer was appointed, who examined witnesses in support of the prosecution. He has recorded statements of the prosecution witnesses as also defence witnesses. He, on the basis of the evidence, has found the aforesaid charges proved against the applicants. Copies of the findings of the enquiry officer were duly served on the delinquents, who in turn submitted their representations against the same. The enquiry officer in his report has relied upon the evidence of witnesses which had been recorded in the preliminary enquiry. As the said witnesses were residents of far away places and as their presence could not be secured without undue delay and expenditure, bringing on record of the statements of ~~the~~ ^{the} aforesaid witnesses after copies thereof were duly furnished to the applicants was in the circumstances justified under Rule 15(3) of the Delhi Police (Punishment & Appeal) Rules, 1980. No grievance, therefore, can be made on that account. The disciplinary authority considered the entire material on record including the representations of the applicants and by his order passed on 9. 6. 1994 has



concurring with the finding of guilt arrived at by the enquiry officer and has proceeded to pass the impugned order of dismissal from service. Delinquents carried the matter in appeal and the appellate authority by an order passed on 21.2.1995 have affirmed the order of the disciplinary authority and dismissed the appeal. Matter was thereafter carried by the delinquents in revision to the revisional authority and the revisional authority by an order passed on 22.4.1996 has affirmed the aforesaid orders and has dismissed the revision applications. Aforesaid orders are impugned in the present OA.

4. We have perused the entire material on record and we find that the finding of guilt arrived at in the disciplinary proceedings against the applicants is fully borne out by the material on record. Having regard to the seriousness of the misconduct found proved against the applicants, we further find that the order of dismissal from service is also fully justified. Principles of natural justice have been duly observed. We are not a court of appeal. It is, in the circumstances, impermissible for us to reappreciate the evidence and give a finding other than the one arrived at by the authorities below. No interference is, therefore, called for in the present OAs. The same are accordingly dismissed with no order as to costs.



(Shanta Shastry)
Member (A)

sns

Attested
Ashok
Co. CT

1/41 V
(Ashok Agarwal)
Chairman

प्राप्ति सत्यापित
VERIFIED TRUE COPY
दिनांक/Dated

वक्तव्य अधिकारी/Section Officer
प्राप्ति सत्यापित अधिकारी
Central Administrative Tribunal
पश्चिम बंगाल, 700 010
नवीनी बाजार, नोएडा