

Central Administrative Tribunal  
Principal Bench

O.A. No. 2127 of 1994

New Delhi, dated this the 6<sup>th</sup> October, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)  
Hon'ble Mr. Kuldip Singh, Member (J)

HC Kailash Chand No. 865/PCR,  
C/o Mrs. Avnish Ahlawat, Advocate  
243, Lawyers Chambers,  
High Court of Delhi,  
New Delhi. .... Applicant

(By Advocate: Mrs. Avnish Ahlawat)

Versus

1. Govt. of National Capital Territory  
of Delhi through  
Commissioner of Police, Delhi  
New Delhi.
2. Addl. C.P. (Opr.),  
Police Headquarters, Delhi.
3. The D.C.P.-(PCR),  
Police Headquarters, Delhi.
4. Shri Som Prakash,  
A.C.P./Inquiry Officer,  
to be served through  
through D.C.P. Headquarter. .... Respondents

(By Advocate: Shri Rajinder Pandita)

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE-CHAIRMAN (A)

Applicant impugns Rule 16 Delhi Police (P&A) Rules  
and prays for setting aside the report of the I.O. dated  
19.8.92. (Annexure A) as well as the Disciplinary  
Authority's order dated 25.5.93 (Annexure B) and the  
appellate authority's order dated 18.10.93 (Annexure C).

2. Applicant was proceeded against departmentally

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vide order dated 6.1.92 on the allegation that on 23.12.91 when the ACP/PCR was holding a meeting of Zonal Inspectors in his office, applicant entered his office without seeking permission and shouted against the Duty Officer ASI Mohinder Singh alleging that he was partial towards non-Sikhs. Applicant is alleged to have expressed anger for being kept on duty despite severe indisposition and further threatened to kill himself by jumping from the Police Station Building. Furthermore he wished to be dismissed and kept on shouting in a very rude way. He created a scene and behaved in an undignified manner in the presence of senior officers in utter disregard of the service rules.

3. The I.O. in his findings dated 19.8.92 held the charge as fully proved beyond doubt.

4. Meanwhile applicant who had been suspended immediate after the alleged incident was reinstated on 15.1.92.

5. On receipt of the I.O.'s findings the Disciplinary Authority issued a show cause notice to applicant on 26.8.92 proposing to impose a penalty of reduction in rank and to treat the period of suspension as not spent on duty. Applicant submitted his reply on

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17.9.92 which was examined by the Disciplinary Authority who also heard applicant in person on 25.9.92. The appellate authority's order 18.10.93 reveals that his plea regarding sickness at the time of the incident was found satisfactory, but he did not putforward any valid plea about misbehaviour. Accordingly the Disciplinary Authority, taking a lenient view, ordered reduction in applicant's pay by three stages from Rs.1210/- to Rs.1125/- p.m. for a period of three years and the period of suspension from 23.12.91 to 14.1.92 was ordered to be treated as not spent on duty. Applicant submitted an appeal agtagainst that order, which was considered by the appellate authority, who set aside the punishment and ordered the Disciplinary Authority to pass a speaking order.

6. Accordingly the Disciplinary Authority passed the impugned order dated 21.5.93 giving reasons for the punishment referred to in Para 5 above, which has been upheld in appeal vide impugned order dated 18.10.93.

7. We have heard applicant's counsel Mrs. Ahlawat and respondents' counsel Shri Rajinder Pandita.

8. The first ground taken by Mrs. Ahlawat is that the gist of the evidence to have been put forward by the

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PWs during the course of the departmental proceedings was not supplied to applicant and hence there has been a violation of Rule 16(1) Delhi Police (P&A) Rules, which requires that along with the summary of misconduct, the list of PWs together with brief details of the evidence to be led by them are required to be supplied to the defaulter.

9. In the present case, we find that along with the summary of allegations, a list of 8 witnesses was appended. Even if we assume that the report of ACP Shri Ghotwal, and the statements of ASI Mahinder Singh, HC Tar Tar Dutt, Constable Pratap Singh and HC Mahinder Singh copies of which were supplied to applicant constituted the gist of the evidence they were going to lead in the D.E., nothing by way of the brief details of evidence to be led, was supplied to applicant in respect of Sl. No.2 Inspector Kishan Singh, Sl. No.3 Inspector Raj Singh, and Sl. No.4 Puran Singh, although admittedly they featured as PWs in the D.E.

10. The use of the words "shall be attached" in Rule 16(1) Delhi Police (Punishment and Appeal) Rules makes it clear that this is a mandatory provision and non-supply of the same as in the present case in respect

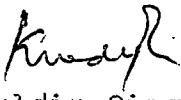
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of atleast three of the PWs therefore constitutes an infirmity which is fatal to the proceedings. We are supported in our view by the Tribunal's order dated 26.8.97 in O.A. No. 80/94 Ex. Head Const. Dheeraj Singh Vs. L.G. Delhi & Ors. and connected case.

11. Othergrounds have also been taken in the O.A. but the foregoing ground itself is sufficient to warrant our judicial interference.

12. The O.A., therefore, succeeds and is allowed to the extent that the impugned orders of the Disciplinary Authority dated 21.5.93 and of the appellate authority dated 18.10.93 are quashed and set aside. Applicant's pay should be restored to him with arrears and such increments as are admissible to him in accordance with rules. It will be open to respondents, if they are so advised, to continue the D.E. from the stage of supplying to applicant the gist of evidence to be led by each of the PWs, and in case they choose to act accordingly, they should conclude the D.E. as expeditiously as possible, and preferably within four months from the date of receipt of a copy of this order, and on conclusion of the D.E., they should take a final decision regarding the treatment of the suspension period. No costs.

  
(Kuldip Singh)  
Member (J)

  
(S.R. Adige)  
Vice Chairman (A)

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