

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO.2186/94

New Delhi, this the 6th day of March, 1995

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri B.K. Singh, Member (A)

Ex. Const. Ajith Kumar No. 1475/C
s/o Shri R. Pardmesharan,
previously employed in
Delhi Police
r/o Village: Inchathadathil Veedu Kabbadu,
P.C. Kabbadu Distt, Kulion,
Kerala.

... Applicant

By Advocate: Shri Shankar Raju

Vs.

1. The Lt. Governor,
National Capital Territory of Delhi
through
Addl. Commissioner of Police,
Northern Range,
Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi.

2. The Additional Deputy Commissioner of Police,
Central District, Darya Ganj,
New Delhi.

... Respondents

By Advocate: Shri Raj Singh

Hon'ble Shri ORDER (ORAL)
J.P. Sharma, Member (J)

The applicant has assailed the order dated 25.11.92 whereby the applicant has been dismissed from service after holding disciplinary departmental proceedings and the aforesaid order of dismissal was upheld by the Appellate Authority. In this application filed by the applicant in October, 1994, the applicant besides quashing the aforesaid order of punishment has also assailed the vires of Rule 16(iii) and Rule 15(3) of the Delhi Police (Punishment and Appeal) Rules, 1980.

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2. A notice was issued to the respondents, who contested this application and opposed the grant of the reliefs. The applicant has also filed the rejoinder but that is not on record. However, for the reasons we are disposing of this application. It is not necessary to further probe the merits of the rival contentions raised in the pleadings of the parties. However, the Registry shall place the rejoinder filed with filing number 1936 on 2.3.95 on record.

3. Shri Shanker Raju, counsel for the applicant argued that one of the co-delinquent Constable Ram Singh was also proceeded similarly almost on the same summary of allegations in a joint departmental enquiry under the provisions of section 21 of the Delhi Police Act, 1978 read with Delhi Police (Punishment & Appeal) Rules, 1980 and a similar order ^{but} of reversion was passed in his case in the departmental enquiry. The said Ram Singh filed O.A. No. 847/94 which came before the Principal Bench and was disposed of by this very Bench on 6.9.94 whereby the orders of the disciplinary authority and the Appellate Authority passed in this case were set aside with liberty to the respondents to proceed with the departmental enquiry from the stage of framing of charge against the delinquent and examination of the aforesaid witnesses 2, 4 and 5 i.e. Shri Ram Kishan, Bhagwan Dass and Jai Singh besides D.C.P. and if necessary ASI who recorded the statement in the preliminary enquiry. It was further observed if the respondents proceeded with the enquiry in the case, the period of suspension and other benefits shall be governed by the final order that will be passed in this enquiry and further liberty was given to the applicant to assail that final order, if so advised and if he was still aggrieved of the same.

4. Shri Shanker Raju, counsel for applicant pointed out that the case of the applicant muta^{ti}-mutandis is based on the same set of arguments on either side. We have also perused the records of the case and our own judgement delivered on 6.9.94 in the case of co-delinquent Head Constable Ram Singh and we find that the issues raised in this case are fully covered by reasoning of decision arrived at in that judgement. We reiterate the ratio we have laid down in that case and on the basis of application the same, the present^{is} is also disposed of quashing the order of punishment by the disciplinary authority and upheld by the Appellate authority with the same direction that the respondents shall be free to initiate departmental enquiry on the same set of summary of allegations according to Rule 16 of the Delhi Police(Punishment & Appeals) Rules, 1980 giving adequate opportunity to the applicant to defend his case in observing the principles of natural justice.

Shri Shankar Raju further pointed out that the enquiry in the case of Constable Ram Singh has now commenced and that is only at the stage of examination of witness^{Head} of administration. The respondents may consider holding a joint enquiry according to law against both of them i.e. Head Constable Ram Singh and the present applicant Constable Ajith Kumar. In order to arrive at the same stage, the applicant will be given a copy of the summary of allegations, if not already furnished and the witness^{es} before charge shall be examined in presence of the applicant and thereafter a charge shall be framed by the Inquiry Officer simultaneously against both of them. The enquiry therefore shall be completed as said above. In case enquiry against Head Constable Ram Singh is finally concluded before communication of this order, then the respondents shall be free to commence the enquiry

against the applicant alone by examining the witnesses of the administration, framing of the charge, examining the defence and finally passing a final order as envisaged under Rule 16 of the Delhi Police(Punishment & Appeals) Rules, 1980.

5. Shri Shanker Raju, learned counsel for applicant did not press the challenge to the vires of Rule 16(iii) and Rule 15(3) of the Delhi Police(Punishment & Appeals) Rules, 1980, so relief in that regard is disallowed.

6. Since we have quashed the order of disciplinary authority and Appellate authority not on merit but on technical ground wherein certain witnesses were not examined and inferences were drawn not supported by the evidence on record so any observation made by us in the body of the judgment shall not be treated as observation on the merit of the rival contention of the parties. The Inquiry Officer shall be free to analyse the evidence and reach his own conclusion irrespective of the fact that the earlier order of punishment is being quashed. The appreciation done by the Inquiry Officer, disciplinary authority as well as Appellate authority has not at all been considered, neither we have deferred with that nor affirm the same.

7. Because the order of dismissal is being quashed, the applicant shall be re-instated forthwith within one month from the date of receipt of this order and shall be paid the same wages as he was paid at the time when he was dismissed from service and will be continued to be paid until and unless the respondents with ^{in its} discretion find that the applicant has to be suspended as he was.

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already suspended earlier during the continuance of the departmental proceedings against him. If he is suspended then he shall be paid suspension allowance as laid down under rules. While passing the final order, the respondents shall decide the period alongwith the period of suspension earlier undergone by the applicant as well as this period of suspension if he is suspended and also the period from the date of dismissal from service ~~from~~ till the date of re-instatement by virtue of this order. The services of the applicant shall be governed by the final order passed by the disciplinary authority as said above. If the applicant is still aggrieved, he shall be at liberty to assail the said order, according to law. Cost on parties.

(B.K. SINGH)
MEMBER(A)

(J.P. SHARMA)
MEMBER (J)

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