

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.2359/94

HON'BLE SHRI JUSTICE V.RAJAGOPALA REDDY, VC(J)

HON'BLE SHRI R.K. AHOJA, MEMBER(A)

New Delhi, this the 20th day of July, 1999

Shri A.B.Constable Kishan Chand
ER No.497/NE
Now No.588/P, S/o Sh. Sarup Singh
Posted at Palam Airport Lines (Domestic)
I.G.I.Airport
New Delhi. Applicant

(By Advocate: None)

Versus

1. UNION OF INDIA : Through
The Additional Commissioner of Police
New Delhi Range, PHO,
I.P.Estate I.P.Bhawan
New Delhi.
2. The Deputy Commissioner of Police
North-East Distt.
Ashok Vihar
Delhi.

(By Advocate: Shri S.K.Gupta, proxy of Shri Girish
Kathpalia)

ORDER (ORAL)

By Reddy: J

None appears for the applicant even on second
call. Since it is the matter of 1994, we heard Shri
S.K.Gupta, proxy of Shri Girish Kathpalia, learned
counsel for the respondents and we have looked into the
record and dispose of the matter on merits as under:

2. The applicant while working as a Constable in
Delhi Police, a departmental enquiry was initiated
against him alleging that while he was performing the
duties at the Police Chowk, Seema Puri, he allowed a
person said to have committed theft and who was handed

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over to him, to slip away. Thereafter the applicant had sold the stolen property of for more than one quintal Copper Wire, for an amount of Rs.6,000/-. An enquiry officer was appointed and the enquiry officer, after conducting the enquiry, submitted his report to the disciplinary authority, finding that the charge could not be proved. The disciplinary authority, considering the record of the enquiry officer and the findings of the enquiry and other evidence on record, agreed with the findings of the enquiry officer and awarded the punishment of forfeiture of service of the applicant for a period of one year permanently entailing proportionate reduction in his pay. The appeal filed by the applicant was dismissed confirming the punishment awarded by the disciplinary authority. These orders are under challenge in this OA.

3. We have gone through the enquiry officer's report. The enquiry officer, after analysing and discussing the evidence of prosecution witnesses and that of the defence witnesses, found as follows:

"In the statements, the PWs have said nothing against the defaulters. The entries produced by defaulter constables are documentary evidence and their testimony can not be disproved."

On the basis of the above findings, the enquiry officer concluded as under:


"On the basis of the testimony of the PWs/DWs scrutiny of the whole evidence recorded during the proceedings and after going through the documentary/material evidence adduced, the charge


(6)

is proved but could not be proved beyond any shadow of the doubt."

4. From the above, it is manifest that there is absolutely no evidence against the applicant. Enquiry officer himself stated that none of the PWs gave statements against the applicant. He also believed the entries produced by the applicant as they are documentary evidence and that they could not be disproved. But he concluded that the charge was proved but was not proved beyond any shadow of the doubt.

5. We find this conclusion does not follow from the findings given by the enquiry officer. When there is no evidence against the applicant and the only conclusion that should follow was that it was a case of 'no evidence'. Thus the enquiry officer fell into a patent error. The disciplinary authority has also simply agreed with the findings of the enquiry officer, but he has not mentioned any other reasons for his conclusion. He ought to have held that the charges were not established. The appellate authority also without applying his mind rejected the appeal. We are therefore of the view that it is a case of 'no evidence' and the applicant is entitled for exoneration of the charge. The OA is therefore allowed. The impugned orders are quashed and the punishment awarded against the applicant is set-aside. No order as to costs.


(R.K.AHOOJA)
Member(A)


(V.RAJAGOPALA REDDY)
Vice-Chairman(J)