

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2494/94

New Delhi this the 27th day of July, 1999.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN(J)  
HON'BLE MR. R.K. AHOOJA, MEMBER (A)

Sub Inspector Rajender Singh Malik,  
No.D/1393, S/o Sh. Raghbir Singh,  
R/o 70, Nangloi Extension No.III,  
Delhi-110041. ...Applicant

(By Advocate Shri Shankar Raju)

-Versus-

1. The Lt. Governor of NCT of Delhi  
through its Commissioner of Police,  
Police Headquarters,  
M.S.O. Building,  
I.P. Estate,  
New Delhi.
2. The Addl. Commissioner of Police,  
Northern Range,  
Police Headquarters,  
M.S.O. Building,  
I.P. Estate,  
New Delhi. ...Respondents

(By Advocate Shri Rajinder Pandita)

O R D E R

By Reddy, J.

The applicant was a Sub Inspector of Delhi Police.

A departmental enquiry has been conducted against him under Section 21 of the Delhi Police Act, 1978 for his gross misconduct and by an order dated 3.12.92, the punishment of permanent forfeiture of five years approved service alongwith reduction of pay withholding of increments was imposed. The appeal filed was rejected by the appellate authority by order dated 17.5.94.

2. The applicant is aggrieved by the above orders.

*V.R.R.*

3. The charge against the applicant was that he alongwith a Constable on 20.6.92, brought one Rajender to the Police Station and detained, and tortured him and demanded an amount of Rs.1,000/- from one Sant Ram and his wife for the release of Rajender. He was released on 30/31.6.92. The said act amounted to misconduct unbecoming of a Police Officer.

4. On the above charge a departmental enquiry was held. An enquiry officer was appointed who examined several witnesses and found that the charge against the applicant established. He submitted the report and the disciplinary authority considering the enquiry officer's report and other evidence on record agreed with the findings of the enquiry officer and imposed the punishment as stated above.

5. The learned counsel for the applicant Shri Shankar Raju raised several contentions before us. It was argued that the preliminary enquiry report was not furnished to the applicant, that the enquiry officer put leading questions to the witnesses and that the enquiry officer has not considered the contentions raised by the applicant. It is lastly contended that the enquiry officer found that the charge did not contain the allegation of lack of supervision but it was found established.

5. The above contentions relate to the enquiry that was conducted by the enquiry officer. We have, therefore, gone through the enquiry officer's report. We find that the enquiry officer examined several prosecution witnesses

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(A)

and as many as 12 defence witnesses. He has assessed their evidence and assigning valid reasons came to the conclusion that the charge against the applicant was fully established. The disciplinary authority having heard the applicant and perused the findings of the enquiry officer and other material on record and having discussed the evidence thoroughly, agreed with the findings of the enquiry officer. The defence version was also examined in depth and considered all the objections raised by the applicant. Nowhere in the enquiry officer's report or the disciplinary authority's order we find that the proceedings of the preliminary enquiry were relied upon by them in arriving at the conclusion. The evidence led in the domestic enquiry alone was considered. Hence the contention that the applicant is entitled to the preliminary enquiry report, is wholly untenable. The preliminary enquiry was conducted only for the purpose of establishing a *prima facie* case to proceed with the departmental proceedings or to drop them. It is only for the satisfaction of the department. We have also nowhere found that the enquiry officer put leading questions to the witnesses. No such objection was also raised before the enquiry officer or before the disciplinary authority.

7. The charge against the applicant was that he and a Constable illegally detained one Rajender and also tortured him when was not released, though approached by the relatives of the said person. As a finding of fact, it was found, by the enquiry officer that when he was approached by the relation of the Rajender for his release

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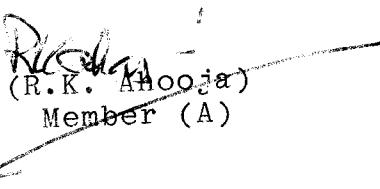
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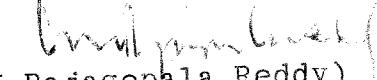
the applicant refused to release him stating that he was being dealt with by the Constable. It was, therefore, found that when illegal detention of Rajender has brought to his notice the applicant being the Sub Inspector of the Police Station he should have released him immediately but he did not do so. It is, therefore, a clear misconduct on his part. It is not a question of lack of supervision. It is again not correct to say that the enquiry officer has not considered the objections raised by the applicant. All the contentions have been considered. Apart from the enquiry officer the disciplinary authority as well as appellate authority has considered the objections.

8. We, therefore, do not find any illegality in the enquiry.

9. No other grounds are raised before us.

10. The O.A. is, therefore, dismissed. No costs.

  
(R.K. Ahuja)  
Member (A)

  
(V.Rajagopala Reddy)  
Vice-Chairman (J)

'San.'