

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.455/1994

New Delhi, this 15th day of July, 1999

Hon'ble Shri A.V. Haridasan, VC(J)
Hon'ble Shri S.P.Biswas, Member(A)

Ex-Constable Kalu Ram, No.1310/E
Village Shamshepur, PO Morata
PS Murad Nagar, Ghaziabad .. Applicant
(By Mrs. Avnish Ahlawat, Advocate)

versus

Govt. of NCT of Delhi, through

1. Commissioner of Police
Police Hqrs.
IP Estate, New Delhi
2. Addl. Commissioner of Police (New Delhi Range)
Police Hqrs.,
IP Estate, New Delhi
3. Dy. Commissioner of Police (East Dt.)
Police Hqrs.,
IP Estate, New Delhi
4. Shri R.K. Joshi
EO/ACP (Hqrs.)
East District, Delhi .. Respondents
(By Shri Girish Kathpalia, Advocate)

ORDER(oral)

Hon'ble Shri A.V. Haridasan

Head-Constable Kalu Ram, who was dismissed from service by order dated 27.7.93 of Deputy Commissioner of Police/Delhi, has filed this application impugning that order at Annexure K dismissing him from service as also the appellate order dated 27.9.93 at Annexure M confirming the penalty. Annexure K order was passed after holding an enquiry into the summary of allegations served on to the applicant on 16.11.92 wherein it was alleged that the applicant alongwith one Constable Virender Singh unauthorisedly took away jeep No.DID 4730 which was parked in Lines area on the night of 29.10.92 and brought back the same at 5.15 AM with smell of liquor and vomitting in the jeep which showed that they had driven the

18

jeep to bring and consume liquor and drove the jeep over 80 KMs unauthorisedly. Alongwith summary of allegations, names of witness and list of documents were also supplied, on a consideration of the evidence in support of the charge and the testimonies of the five defence witnesses, enquiry officer came to the finding that the applicant was guilty. The disciplinary authority agreeing with the finding held the applicant guilty and awarded to the applicant the penalty of dismissal from service.

2. The applicant has assailed the impugned orders on various grounds. The learned counsel of the applicant confined her argument to two points i.e. (i) The finding that applicant is guilty is perverse as there is no evidence to support this finding and (ii) As a gist of evidence proposed to be adduced through witnesses has not been furnished alongwith the summary of allegations, the enquiry is vitiated.

3. Respondents have filed reply statement in which they have contended that the enquiry has been held in conformity with the rules and the applicant was given fair and reasonable opportunity to defend himself and therefore there is no merit in the application.

4. We have with meticulous care gone through the material placed on record and heard the arguments of the learned counsel for the parties.

19

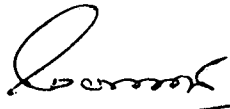
5. The main thrust of the argument of the learned counsel appearing for the applicant is that non-supply of gist of evidence alongwith summary of allegations, list of witnesses and list of documents amounts to violation of principles of natural justice and therefore the enquiry is vitiated. In support of her argument, the learned counsel brought to our attention the judgements of this Tribunal in OA 80/94 and 338/94 decided by a common order on 26.8.97 and OA 3211/92 decided on 23.9.97. In both these judgements, it was held that non-furnishing of list of witnesses with details of evidence and list of documents would amount of denial of reasonable opportunity to defend to the accused and the orders based on such an enquiry deserves to be quashed. We have considered the facts of the case in the light of this argument. In this case admittedly alongwith the summary of allegations a list of four witnesses and a list of 5 documents have been supplied. In the list of documents it is stated document No.1 was to be proved through Inspector Balwant Sharma (Witness No.4); document No.2 by H.C.Dev Singh (witness No.1), document No.3 by H.C. Lal Chand (witness No.2) and document No.3 and 4 by H.C.Dharpal (witness No.3). As the summary of allegations contains the gist of the allegations and the list of documents what document was to be proved by which witness, we are of the considered view that there is substantial compliance with the requirement of the rules in regard to furnishing to

✓

the applicant of list of documents, gist of evidence and list of witnesses proposed to be examined and that there is no infirmity or infraction of rules rendering the enquiry vitiated. The facts and circumstances of the case under citation not being exactly similar the rulings does not apply to this case. The scope of judicial review in matters like this extend only to see whether the enquiry has been held properly and whether the official facing the enquiry has had a fair and reasonable opportunity to defend. A minor and inconsequential defect or omission in the procedure which does not have the effect of causing a prejudice to the official will not vitiate the proceedings.

6. The next argument of the learned counsel is that the finding that the applicant is guilty is perverse. A careful scrutiny of the material papers in the enquiry and the report of the enquiry authority revealed that the finding has been arrived at on a proper assesment of the evidence adduced at the enquiry and therefore we find no merit in that argument also.

7. In the light of the discussions stated above, we do not find any justification to interfere with the decisions taken by the disciplinary authority as also the appellate authority. The OA is, therefore, dismissed. No costs.


(S.P. Biswas)
Member(A)


(A.V. Haridasan)
Vice-Chairman(J)

/gtv/