

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH.

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1. O.A. No.80 of 1994.
2. O.A. No.338 of 1994.

NEW DELHI, THIS THE 26th DAY OF AUGUST, 1997.

HON'BLE MR. JUSTICE K.M.AGARWAL, CHAIRMAN.

HON'BLE MR. S.P.BISWAS, MEMBER (A).

1. O.A. No.80 of 1994.

Ex. Head Constable Dheeraj Singh No.156/NE
son of Shri Pyare Lal,
previously posted in North-East Distt. of Delhi Police,
R/o D.2/12, Khajoori Khas Colony,
Delhi-110094.

....Applicant.

(BY ADVOCATE SHRI SHANKAR RAJU)

versus

1. Lt. Governor,
Govt. of National Capital Territory of Delhi
(Through : Additional Commissioner of Police),
New Delhi Range, Police Headquarters, MSO Building,
I.P. Estate, New Delhi.
2. Additional Dy.Commissioner of Police,
North-East District, Shahdara,
Delhi.

.... Respondents.

(BY SHRI AJESH LUTHRA, PROXY FOR MS.J.KAUSHIK)

2. O.A. No.338 of 1994.

Ex. Constable Satbir Singh No.750/NE
son of Shri Surjeet Singh,
R/o Village Sankhol - Bahadurgarh District Rohtak-
Haryana, previously employed in Delhi Police.

....Applicant

(BY ADVOCATE SHRI SHANKAR RAJU)

versus

1. Lt. Governor
Govt. of National Capital Territory of Delhi
(through Addl. Commissioner of Police,
New Delhi Range) Police Headquarters, MSO Building,
I.P.Estate, New Delhi.
2. Additional Dy.Commissioner of Police,
North-East District, Shahdara,
Delhi.

....Respondents.

(BY SHRI AJESH LUTHRA, PROXY FOR MS.J.KAUSHIK)

ORDER

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JUSTICE K.M.AGARWAL:

The two applicants in the two cases have made identical prayer for quashing the impugned orders of dismissal from service and reinstatement with back salaries and other consequential reliefs.

2. The applicant in O.A. No.80/94 was the Head Constable, whereas the applicant in the other O.A. No.338/94 was a Constable in Delhi Police at the relevant time. Both of them were simultaneously charge-sheeted in regard to the alleged incident dated 18.9.1992 of illegal gratification at Bhopra Check Post. In D.E. they were found guilty and accordingly subjected to a penalty of dismissal from service. In appeals, the penalty was affirmed and, therefore, the two applicants have challenged their orders of dismissal from service by filing two separate O.As as aforesaid.

3. The learned counsel for the respondents fairly conceded that as in the case of Soma Kumar Vs. Union of India, O.A. No.812/1991, decided on 29.9.1995 by this Tribunal; so in the present two cases also the lists of P.Ws together with the documents to be relied on by the prosecution and summary of allegations were supplied to the applicants, but the brief details of the evidence to be led by the P.Ws. were not supplied to them. This was held to be in violation of the mandatory provisions of rule 16(1) of the Delhi Police (Punishment & Appeal) Rules, 1980, resulting in vitiating the entire D.E. in the said case. We are, therefore, of the view that for identical reasons, the impugned orders in the two cases deserve to be quashed.

4. In O.A. No.812/91, decided on 29.9.1995, the penalty of forfeiture was awarded, whereas in the present two cases, penalties of dismissal have been awarded. Accordingly the nature of reliefs to be granted in these two cases has to be different.

5. Both the applicants were under suspension on the date of the impugned orders of dismissal from service. The allegation against Constable Satbir Singh, the applicant in O.A. No.338/94 was that he extorted two currency notes of Rs.5/- denomination from the conductor

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of Bus No.UP-15/4638, whereas the Head Constable Dheeraj Singh, the applicant in the other O.A. No.80/1994 and one other constable were alleged to be standing nearby the check post. According to the prosecution, the Police staff on the alleged date and at the alleged time were extracting money from the bus conductors and drivers of buses running enroute Ghaziabad to Saharanpur. Looking to the nature of allegations and smallness of amount alleged to have been recovered from the applicants and the time gap between the date of the incident and the date of this order, we are of the view that no fruitful purpose would be served, if de novo D.E. is directed. Under these circumstances we are of the view that it would serve the ends of justice, if the applicants are directed to be reinstated in service, after quashing the impugned orders of dismissal passed against them, but without back wages for the period between the date of their dismissal and the date of reinstatement, or seniority over others on the basis of their past service, because by this time so many persons may have been promoted and it would not be proper to make any order in their absence affecting their seniority. However, the period between the date of dismissal and the date of reinstatement may be directed to be considered as qualifying service for the limited purpose of pensionary benefits, if any, payable to the applicants after the date of their retirement.

6. In the result and for the foregoing reasons, both the applications partly succeed and are accordingly partly allowed. The impugned orders of dismissal passed by the disciplinary authority, the appellate authority and the revisional authority, if any, imposing the penalty of dismissal from service on the applicants are hereby set aside and the respondents are directed to reinstate the applicants within a period of two months from the date of receipt of a copy of this order. The applicants shall not be entitled to back salaries for the period between the date of their dismissal and the date of their reinstatement or seniority over others on the basis of their past service, because by this time so many persons might have been promoted and it would not be proper

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to make any order in their absence, affecting their seniority. However, the period between their dismissal and the date of reinstatement may be considered as qualifying service for the limited purpose of pensionary benefits, if any, payable to the applicants after their retirement. No costs.

K.M. Agarwal

(K.M.AGARWAL)
CHAIRMAN

S.P. Biswas

(S.P.BISWAS)
MEMBER (A)