

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.No. 82/1994

(5)

New Delhi this the 14th Day of July 1999

Hon'ble Mr. V. Ramakrishnan, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

Sub Inspector Vikram Singh No. D/1891
son of Shri Vijai Singh, aged about 36 years,
presently posted in Vth BN. DAP R/o
Atr. No.6-G, Police Colony,
Model Town,
Delhi.

Applicant

(By Advocate: Shri Shankar Raju)

Versus

1. Union of India
Through Lt. Governor
N.C.T.O. 6, Raj Niwas Marg,
Delhi - 110054.
2. The Additional Commissioner of Police,
Northern Range, Police Headquarters,
M.S.O. Building, New Delhi.
3. The Dy. Commissioner of Police
Central District, Daryaganj,
New Delhi.

Respondents

(By Advocate: Shri S.K. Gupta, proxy counsel
for Shri B.S. Gupta)

ORDER (Oral)

Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

The applicant is aggrieved by the punishment order passed by the respondents wherein it was directed that five years approved service be forfeited temporarily with reduction of pay by five stages for a period of five years by order dated 4.3.1992. The Appellate Authority has modified this order by order dated 12.1.93 to the effect that the forfeiture of approved service ^{has} been reduced to three years service instead of five years.

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2. The aforesaid impugned punishment orders have been passed by the respondents after holding a departmental enquiry against the applicant on the charges as given in Annexure A-B.

3. According to the respondents they had held the departmental enquiry in accordance with the rules and instructions as provided under section 21 of the Delhi Police Act, 1978. However, this is disputed by Shri Shankar Raju, Learned Counsel. One of the main grounds taken by Shri Shankar Raju, Learned Counsel is that ^{the} preliminary enquiry had been held by ACP P.S. Tomar. During the course of this enquiry ~~he~~ had recorded the statements of witnesses who were subsequently produced and examined as PWs, including Shri P.S. Tomar as PW-7. His contention is that neither the Preliminary enquiry report nor the statement of this witness recorded in that enquiry were supplied to the applicant, with the result that the applicant had been greatly prejudiced as he could not effectively cross examine the witnesses or put forward his case. He has also relied upon the Circular issued by the Respondents dated 1.5.80 (copy placed on record). He has also submitted that in accordance with the provisions of Rule 15(3) of the Delhi Police (Punishment and Appeal) Rules, 1980 read with the provisions of this Circular, even though he may not have asked for the Preliminary enquiry the Respondents should have given him a copy of the same at the time of the departmental proceedings. Admittedly, the Respondents have failed to do this. Respondents in their reply have submitted that the Preliminary enquiry report was not given as he had not asked

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for the same. However, this argument of the respondents is contrary to their own Circular dated 1.5.80 and is accordingly rejected.

4. Today in Sushil Chander V. N.C.T., Delhi & Ors. (O.A. 2570/93) we have dealt with similar facts and issues in which following the earlier Order passed by the Tribunal in Prem Pal Singh V. Union of India (O.A. 874/96) we have quashed the impugned punishment orders and remitted the case to the respondents to hold a fresh enquiry from the stage of supplying the preliminary enquiry report and proceed with the same in accordance with law/rules. In the circumstances, we ~~do~~ not wish to express any views on the merits of the case. In view of what has been stated above, the O.A is allowed to the extent that the impugned punishment order dated 4.3.1992 and appellate authority's order dated 12.1.1993 are quashed and set aside with the following directions:

(i) The case is remanded to respondents to conduct fresh departmental proceedings against the applicant in accordance with law, Rules and Instructions, from the stage of supplying copy of the preliminary enquiry report to the applicant. This shall be concluded as expeditiously as possible and in any case, within four months from the date of receipt of a copy of this order, in which the applicant shall also fully co-operate;

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(ii) The applicant shall be deemed to continue under suspension pending enquiry;

(iii) The respondents shall pass appropriate orders ~~in~~ ^{at} the conclusion of the enquiry, with regard to the period of suspension;

(iv) Parties to bear their own costs.

Lakshmi
(Mrs. Lakshmi Swaminathan)
Member (J)

V.Ramakrishnan
(V. Ramakrishnan)
Vice Chairman (A)

vtc.