

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(1)

OA-972/94

New Delhi this the 28th day of July, 1999.

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

Sh. Nepal Singh,
S/o Sh. Devi Singh,
R/o Vill.&P.O. Pisawa,
Police Station, Chandbus,
Distt. Aligarh(UP). Applicant

(through Sh. Shyam Babu, advocate)

versus

1. Addl. Commissioner of Police,
(New Delhi Range), Police
Hqrs., I.P. Estate,
New Delhi-2.
2. Dy. Commissioner of Police,
North East District,
P.S. Seelampur, Delhi. Respondents

(through Sh. Bhasker Bhardwaj for Sh. Arun Bhardwaj)

Order

Hon'ble Sh. S.P. Biswas, Member(A)

The applicant, a Sub-Inspector under Delhi Police is aggrieved by Annexures-B & A orders dated 31.3.93 and 25.5.93 respectively. By Annexure-B, the applicant has been dismissed from the services by orders issued at the level of DCP, North-East/Delhi. By order at Annexure-A, the punishment of the applicant has been reduced from "dismissal" to that of forfeiture of two years approved service temporarily for a period of two years with cumulative effect.

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The brief facts of the case are that a departmental enquiry under Section 21 of Delhi Police Act was ordered against S.I. Nepal Singh (the applicant herein) by an order dated 6.11.92. The issue related to a quarrel between one Sh. Om Prakash and Sh. Raghuvans Tyagi at Ashok Nagar under Nand Nagri Police Station. On 16.6.92 at about 1.10 A.M. Sh. Tyagi was sleeping on the roof of his house and at about 12 O'clock Sh. Om Prakash came and asked him to come down. As alleged, Sh. Om Prakash started beating Sh. Tyagi who reportedly got injured as per the medical report. The applicant was ordered to investigate the dispute. He went to the spot but did not find either of the party and kept the relevant D.D. entry with him. Sh. Om Prakash submitted an application against Sh. Tyagi & Ors. which was marked for an enquiry on 16.2.92 but the applicant did not submit the enquiry report to his senior officer till 8.7.92. Finally, Sh. Om Prakash, the complainant alongwith associates were murdered by Sh. Tyagi & Ors. in the night of 25-26/6/92. Thus, the applicant is alleged to have failed in taking preventive action on the complaint costing the life of the complainant and his associates.

In the disciplinary proceedings held under the relevant provisions of Delhi Police Rules, the charges against the applicant stand proved. While concluding the enquiry proceedings, the enquiry officer concluded that:-

"S.I. Nepal Singh is liable for not taking action on D.D.No.20-A dated 16.6.92 on the complaint of Shri Raghuvans Tyagi as the defaulter Om Prakash seems so aggressive that during night of 25/26.6.92 he might have gone to the house of Raghuvans Tyagi where he was murdered by complainant party."

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3. Shri Shyam Babu, learned counsel for the applicant seeks to challenge the aforementioned findings of the enquiry officer on the ground that the same is arbitrary, perverse and without any evidence on record. The enquiry officer has ignored the evidence of PW1 and PW2. As per the admissions of prosecution witnesses, the applicant had expressed his view about non-availability of Sh. Om Prakash on 16.2.92 and thereafter till 29.6.92. The statement of PW1 clearly demolishes charge against the applicant with regard to non-action on D.D.No.20A, the learned counsel for the applicant argued.

4. The enquiry officer has also ignored the evidence of PW2 when he admitted in his cross examination that the applicant had recocarded on D.D.No.20A that Sh. Om Prakash alongwith associates were not found on the spot and reported to be absconding. The evidence of PW2 also does not establish the guilt against the applicant. No presenting officer was appointed in this case and that the role of the presenting officer was performed by the enquiry officer himself. The enquiry officer has, thus, acted not only as a judge but also as a prosecutor.

5. In the counter, the respondents have controverted the claims of the applicant. The learned counsel for the respondents submitted that the departmental enquiry was entrusted to ACP Seelampur who, in turn, submitted his finding holding the applicant guilty of the charge. A copy of the report was served on the applicant who had submitted his representation in response to the said report/findings. The Appellate order of the Addl.

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Commissioner of Police against the orders of dismissal was considered at length and it is only on account of the applicant's 33 years of service that the Appellate Authority decided to impose a lighter punishment on the applicant thereby reducing the punishment from "dismissal" to forfeiture of two years approved service and that too temporarily. Again, the suspension period from 26.6.92 to 12.8.92 has been decided as period spent on duty after considering the details.

6. We have heard the learned counsel for the parties and perused the record.

7 We find that of the two charges established, the Disciplinary Authority did not consider one of them having been established and as regards other charge the enquiry officer did not hold the same as having been proved. We find that the allegations for not taking action on DD No.20A dated 16.6.92 has been fully substantiated. The details have been discussed by the Disciplinary Authority in its order imposing the punishment and it was not necessary to discuss all the irrelevant points raised by the applicant. As per provisions under Rule 16(iii) of Delhi Police (Punishment & Appeal) Rules, 1990, the accused official shall be bound to answer any questions which the enquiry officer may deem fit and proper to put to him with a view to eliciting the facts referred to in the statement or documents etc. The Enquiry Officer has rightly refused to cross examine all the witnesses whose evidences were considered irrelevant. Such a step cannot be held as arbitrary as alleged by the applicant. We also find

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that a public man lost his life due to the negligence/inaction on the part of the applicant. If he had taken prompt action, the unhappy turn of events could be avoided. We in the Tribunal are not required to sit in judgement to re-appreciate the evidences adduced. Nor do we find any reasonable ground on the basis of which the enquiry proceedings could be held to have been vitiated on account of any legal requirements.

8. In the background of aforementioned details, the application deserves to be dismissed and we do so accordingly but without any order as to costs.


(S.P. Biswas).

Member (A)


(A.V. Haridasan)

Vice-Chairman (J)

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