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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1271/94

Hon'ble Sh. T.N.Bhat, Member (J)
Hon'ble Sh. S.P.Biswas, Member (A)

(6)

New Delhi, this the 3rd day of March, 1998

Ex-Cosntable Bal Kishan, No.645/E,
Delhi Police,
through
Ms. Avnish Ahlawat, Advocate,
243, Lawyers Chambers,
Delhi High Court,
New Delhi.

APPLICANT

(By Ms. Avnish Ahlawat, Advocate)

Versus

1. Government of National Capital
Territory of Delhi, through
Commissioner of police, Delhi,
M.S.O. Building,
I.P. Estate,
New Delhi- 110002.
 2. Sh.S. Ramakrishna
Additional Commissioner of Police
(New Delhi Range),
Delhi Police,
Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi - 110002.
 3. Sh.M.A. Sayed
Deputy Commissioner of Police (East),
Shalimar park, Delhi Police,
Shadhra, Delhi.
 4. Inspector Tika Ram (Enquiry Officer)
Delhi Police, through
Deputy commissioner of Poloce (HQ-I),
Delhi Police,
Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi - 110002.
- (By Sh.Amresh Mathur, Advocate)

RESPONDENTS

O R D E R (Oral)

Hon'ble T.N.Bhat, Member (J)

This O.A. is directed against the order dated 15.12.93
passed by respondent no. 3 which, on conclusion of disciplinary
proceedings, the penalty of dismissal from service has been

imposed upon the applicant. The applicant further assails the appellate order dated 10.2.94 by which the appeal preferred by the applicant has been rejected by respondent No.2.

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2. The applicant was at the relevant time working as a constable in Delhi Police and was served with a charge-sheet containing the following allegations:

"It is alleged in the complaint of Smt. Shanti Devi w/o. Late Mool Chand R/o. Village, Kichri Pur that her son Raju has been burnt to death by four persons namely Rakesh, Vinod, Mukesh and Vinay. The motive of the crime committed is mainly TSR No. DL-1R-6046 belonging to the deceased Raju. Raju had borrowed Rs. 3,000/- from Rakesh on the pretext that Raju will allow him to drive the TSR from 5 PM to 5 AM daily. In fact, Rakesh made plan to grab the TSR on his own. For this he took the help of you Const. Bal Kishan NBo. 645/E while posted in P.S. Shakarpur. You Const. Bal Kishan, No. 645/E stopped the TSR of Raju at Red Light ITO Check Post on the pretext of checking the papers of the vehicle at the instance of Rakesh and demanded Rs. 100/- and thereafter the matter was settled for Rs. 500/-. Raju was asked to take his vehicle from mother dairy in the evening where he was burnt by the above persons. This shows that you Const. as such helped the accused persons by illegal means to procure the TSR which is undesirable from a member of disciplined force.

"The above act on the part of you Const. Bal Kishan, No. 645/E amounts to grave misconduct, malafide intention and callous attitude towards your official duties, which renders you liable to be dealt with departmentally u/s 21 of Delhi Police Act, 1978."

3. The list of witnesses which was annexed to the summary of allegations contained the names of six persons, namely, Smt. Shanti Devi mother of Raju, Smt. Monica widow of Raju, Rakesh, Vinod, Daily Diary writer of Police Station, Shakarpur and S.H.O of Trilokpuri Police Station. Sh. Tika Ram, S.H.O, Krishan Nagar was appointed as the enquiry officer who conducted the enquiry and submitted his report/findings, on consideration of which the disciplinary authority imposed the aforesaid punishment on the applicant. According to the enquiry officer, the charge was established against the delinquent constable and the

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disciplinary authority agreed with the aforesaid findings. The appellate authority also affirmed the findings and the punishment order.

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4. The applicant has assailed the impugned orders, mainly, on the ground that there was no evidence and that the findings record by the enquiry officer are perverse. The learned counsel for the applicant, during the course of arguments, took us through the statements of the witnesses recorded by the enquiry officer and pointed out that neither the mother nor the widow of Raju deceased had any personal knowledge of the happening of the alleged event and that the remaining witnesses had failed to support the case against the applicant. The learned counsel for the respondents, on the other hand, argued that there was sufficient evidence connecting the applicant with the alleged incident.

5. Having carefully considered the rival contentions we find ourselves inclined to agree with the contentions raised on behalf of the applicant. On going through the enquiry report itself we find that the enquiry officer has admitted in the last para of the report that the so-called independent witnesses, namely, Rakesh and Vinod had failed to support the case. As a matter of fact, Vinod who had been cited as witness against the applicant has stated that he did not at all know the applicant nor did he have any knowledge of the fact as to whether Raju had at all borrowed any amount from Rakesh. Likewise, Rakesh also denies knowledge about the alleged incident. We are, thus, left only with the statements of Smt. Shanti and Smt. Monica. However, on going through their deposition before the enquiry officer, we find that both of them have admitted that they have no personal knowledge of the incident and that the information

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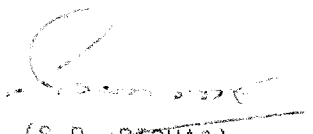
regarding that incident was given to them by one Pappi, who is the other son of Smt. Shanti Devi. The said Pappi has neither been cited nor examined as a witness by the enquiry officer. (9)

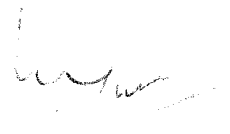
6. As regards the other witnesses examined by the enquiry officer, it will suffice to say that they are only formal witnesses who have no first hand knowledge about the incident.

7. On the basis of the above discussion we are convinced that this is a case of no evidence and that the enquiry officer, the disciplinary authority and the appellate authority have fallen into error in recording their findings against the applicant.

8. In our considered view the order imposing the punishment on the applicant as also the appellate orders are liable to be quashed. Accordingly, this O.A is allowed and the impugned orders are hereby quashed. We, however make it clear that it shall be open to the competent authority to take a decision on the question as to how the period from the date of applicant's dismissal from service to the date of this order is to be treated. We direct that the applicant shall be reinstated in service forthwith.

9. There shall be no order as to cost.


(S.P. BISWAS)
MEMBER (A)


(T.N. BHAT)
MEMBER (J)

/PB/