

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.No.1591/1994

New Delhi, this 23rd day of July, 1999

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

Ex-Constable Ranbir Singh
(through his legal heirs -
Mrs. Parmeshwari & Ors.)
Village & PO Bhambhawa
Dt. Rohtak, Haryana

... Applicants

(Through Mrs. Avnish Ahlawat, Advocate)

Versus

Govt. of NCT of Delhi, through

1. Commissioner of Police
Police Hqrs.
MSO Building
IP Estate, New Delhi
2. Addl. Commissioner of Police
Police Hqrs.
IP Estate, New Delhi
3. Shri M.A. Sayed
Dy. Commissioner of Police (East)
Shalimar Park, Shahdara, Delhi
4. Inspector Ram Niwash Vashistha
EO/Office of DCP (HQ/I)
IP Estate, New Delhi

... Respondents

(Through Shri Rajinder Pandita, Advocate)

Hon'ble Shri A.V. O R D E R (oral)
Haridasan

Late Shri Ranbir Singh, who was Constable No. 1135/E under the Delhi Police had filed this application under Section 19 of AT Act, 1985 impugning the order dated 07.05.93 of the disciplinary authority (OA for short) removing him from service and order dated 06.08.93 of the appellate authority confirming the order of removal and also the finding of the Enquiry officer (EO for short)

dated 22.3.93 establishing applicant's guilt on the basis of which the DA awarded the punishment. The original applicant was proceeded against on the basis of summary of allegations as at page 34 of the paper book.

2. The applicant having denied it, an enquiry was held and on the basis of the report of the EO, the DA finding him guilty removed him from service. He filed an appeal against the impugned orders in which ~~the~~ inter alia contended that the enquiry was held in violation of the rules and natural justice as list of witnesses and gist of evidences along with list of witnesses were not given to him and thus the finding is perverse. As the appeal was dismissed, he has filed this application challenging the orders of the disciplinary authority as also of the appellate authority.

3. During the pendency of the OA, the original applicant Ranbir Singh expired on 18.07.95. In the substantial petition the legal heirs of the original applicant have been brought in the array of applicants as per order of this Bench dated 15.08.96.

4. Respondents have filed reply statement. At para 4.5 of the reply they have stated that the list of documents was not supplied to the applicant inadvertently. We find that gist of evidence also was not given to the applicant. In the case of Soma Kumar Vs. UOI (OA 812/91) decided on 29.9.95 the Tribunal held that non-supply of gist of evidence would amount to violation mandatory rules of Delhi Police (P&A) Rules and therefore the enquiry held was vitiated. This ruling was followed by the Division Bench in its subsequent decision in OA 80/94 and OA 338/94 decided by a common order dated 26.8.97. Since in the present case the gist of evidence was not supplied to the applicant before the enquiry was held and the list of documents, we are of the considered view that the report of the EO was vitiated. For that

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reason alone the impugned orders are liable to be set aside. While agreeing with the finding of the EO, it appears that the DA has not adverted to this aspect at all. The appellate authority also has not considered whether the enquiry was held according to the rules. We, therefore, find that the impugned orders have ~~are~~ to be set aside.

5. Now that holding of fresh enquiry after complying with the provisions of Rule 21 of Delhi Police (P&A) Rules is not possible as the original applicant is no more, we are of the considered view that it would be appropriate that terminal benefits are given to the legal heirs of late Shri Ranbir Singh treating that Shri Ranbir Singh, the original applicant continued in service from the date of removal till his death on 18.7.95.

6. In the result, the application is disposed of setting aside the impugned orders of the DA and appellate authority and directing the respondents to give all consequential and terminal benefits to the legal heirs of late Shri Ranbir Singh treating that he continued in service till the date of his death on 18.7.95. These directions shall be complied with within a period of 3 months from the date of receipt of a copy of this order. No costs.


(S.P. Biswas)
Member(A)


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