

Central Administrative Tribunal  
Principal Bench: New Delhi

OA No. 1808/94

7

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

Hon'ble Shri S.R. Adige, Vice-Chairman (A)  
Hon'ble Shri P.C. Kannan, Member (J)

Shri Balraj Singh, ASI No. 3026/D,  
s/o late Nathu Singh,  
R/O C-59, West Jyoti Nagar,  
Shahdara, Delhi.

...Applicant

(By Advocate :None)

Versus

1. Commissioner of Police,  
Police Headquarters, IP Estate,  
New Delhi.
2. Shri P.R. Meena,  
Deputy Commissioner of Police,  
Central District, Darya Ganj,  
New Delhi.
3. Shri P.R.S. Barar,  
Additional Commissioner of Police,  
Central District, Darya Ganj,  
New Delhi.
4. Shri P.N. Aggarwal,  
Deputy Commissioner of Police,  
Central District, Darya Ganj,  
New Delhi.

.... Respondents

(By Advocate: Sh. Jog Singh through proxy Sh. Ram Lal)

O R D E R (ORAL)

By Hon'ble Shri S.R. Adige, Vice-Chairman (A):

1. Applicant impugns the disciplinary authority's order dated 5.3.1993 (Annexure - A) awarding punishment of withholding of one increment for a period of one year temporarily and treating his suspension period from 10.4.1992 to 10.6.1992 as period not spent on duty, and the appellate order dated 17.5.94 (Annexure -B) rejecting the appeal preferred by applicant.

7

(8)

2. Applicant was proceeded against departmentally on the allegation that while posted at P.S. Darya Ganj he was detailed for duty at Kucha Challan Picket on 10.4.1992, which is located in a communally sensitive area, which required him ~~not to be fully~~ <sup>to be fully</sup> vigilant, but was found sleeping when checked by the then DCP, Central District who happened to be on patrolling/checking in the area. The Inquiry officer in his report dated 15.10.1992 (Annexure F1) held the charge as proved. A copy of the inquiry officer's report was furnished to the applicant vide memo dated 27.12.1992 (Annexure F) for making representation, if any.

3. Applicant submitted his representation, and after considering the same as well as the other materials on record, the disciplinary authority, agreeing with the inquiry officer's findings, issued the impugned order dated 5.3.1993, against which the appeal preferred by the applicant was rejected by impugned order dated 17.5.1994.

4. None appears for the applicant when the case was called out even on the second call. Shri Ram Lal appears as proxy for Shri Jog Singh, counsel for respondents.

5. The first ground taken by the applicant is that he was not afforded any opportunity to cross examine the complainant which is in violation of Rule 16(iii) of Delhi Police (Punishment & Appeal) Rules. As the complainant (DCP, Central District) was not summoned as a P. W. the question of cross examining him does not arise and this ground fails. 7

6. Secondly, it has been contended that applicant was sick on that day and was resting for a few minutes in the picket itself after taking some medicine. As pointed out by the appellate authority in his impugned order, if the applicant was so sick as to be unable to perform his duties he should have brought it to the notice of his superiors and proceeded on leave, more particularly as he was detailed for duty at a communally sensitive spot.

7. Another ground taken by him is that other personnel posted at the police picket, had stated before the inquiry officer that applicant was not sleeping, but was suffering from fever and cold, and had taken some medicine.

8. As pointed out by the disciplinary authority in his impugned order the then DCP, Central District has personally checked and found the applicant/defaulter sleeping inside the picket box and right from that spot, he had flashed a message of suspension of the defaulter. There was no reason for the disciplinary authority to disbelieve the DCP, Central District who personally found the applicant sleeping inside the picket. The mere fact that he was found sleeping by the DCP of an area which was communally sensitive and where the picket was considered essential for maintenance of law & order, was enough to prove his negligence and dereliction of duty.

9. Further, applicant has himself admitted in his defence statement that he was in a state of drowsiness when posted at the police picket located in a communally sensitive area which called for maximum alertness.

(D)

10. In the light of the aforesaid, we find no reasons to interfere with the impugned orders, as no infirmity in the conduct of the proceedings has been ~~noted~~ noticed, and the O.A. is, therefore, dismissed. No costs.

P.Kannan

(P.C.KANNAN)  
MEMBER (J)

/NaresH/

S.R.Adige

(S.R.ADIGE)  
VICE CHAIRMAN (A)