

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1191/2000

Monday, this the 26th day of March, 2001.

Hon'ble Shri Justice Ashok Agarwal, Chairman  
Hon'ble Shri S.A.T. Rizvi, Member (A)

Gayatri Prakash Sharma (D1/624)  
S/o Shri Parmanand Sharma,  
R/o 35-A Gali No. 10, New Gobindpura,  
Delhi ..... APPLICANT  
(By Advocate: Shri Shyam Babu)

VERSUS

1. Govt. of NCT Delhi  
through its Chief Secretary,  
5, Sham Nath Marg,  
Delhi
2. Sr. Addl. Commissioner of Police,  
(AP & T)  
Delhi, Police Headquarter,  
I.P. Estate, New Delhi
3. Commissioner of Police  
Delhi, Police Headquarters  
IP Estate,  
New Delhi ..... RESPONDENTS  
(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

By Hon'ble Shri S.A.T. Rizvi, Member (A):

On the allegation of illicit relations with two women and the further allegation of a quarrel which broke out at G-52, Laxmi Nagar, New Delhi, in which the applicant and a woman sustained injuries, coupled with the jumping down of the applicant from the roof of the aforesaid house, thereby sustaining injuries in his leg, the applicant (Inspector) has been charged with gross mis-conduct, unbecoming of a Police Officer, rendering him liable for action under Section 21 of the Delhi Police Act 1978.

2. In the departmental proceedings taken up against him, the applicant has been punished with

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forfeiture of two years approved service permanently for one year entailing reduction in his pay from Rs.8300 to Rs.7900 with a further direction that he would not earn increment of pay during the period of reduction and on the expiry of the aforesaid period, the reduction will have the effect of postponing his future increments of pay. The disciplinary authority's order aforesaid is dated 28.1.1998. The aforesaid order was carried in an appeal, but the appeal preferred by the applicant has been rejected by the appellate authority on 26.5.1999. Both these orders are impugned in the present OA, and the prayer made is that both these orders should be quashed and set aside.

3. We have heard the learned counsel on either side and have perused the material placed on record.

4. The summary of allegation served on the applicant shows that on 11.7.1995 at about 0130 hours (early morning) P.S. Shakar Pur received information about a quarrel/fight having broken out at House No. G-52 Laxmi Nagar. It was found by the local police, which arrived at the spot immediately thereafter, that a lady and a male person had sustained injuries and had been sent to the LNJP Hospital in a PCR van. S.I. Kartar Singh of P.S. Shakar Pur thereupon proceeded to the LNJP Hospital and collected the M.L.C. in respect of Shri Gayatri Prakash Sharma and Smt. Sunita Sharma, and on enquiry, it was found that the said Shri Gayatri Prakash Sharma (applicant) was an Inspector of Delhi Police posted in the 8th Bn. DAP. During the enquiry,

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it was also revealed that the applicant was having illicit relations with Smt. Ashok Kumari for the last 15 years and further that he had developed illicit relations with Smt. Sunita Sharma also while he was posted as SHO D.B.G. Road. After the quarrel aforesaid broke out, someone informed the PCR and upon seeing the police, the applicant jumped from the roof of the aforesaid house which led to injuries in his leg. Along with the summary of allegations, a list of prosecution witnesses together with a list of document was also served upon the applicant.

5. The Inquiry Officer has proceeded to examine five prosecution witnesses including the aforesaid Smt. Ashok Kumari and the S.I. Kartar Singh, who are both material witnesses in this case. The aforesaid witnesses were examined in the presence of the applicant and he was given opportunity to cross-examine each of the witnesses. The applicant submitted a list of seven defence witnesses. All of them have been examined by the Inquiry Officer.

6. Based on the evidence on record including the statements of witnesses together with their cross-examination, the Inquiry Officer has proceeded to discuss and analyse the evidence and has reached his conclusions only thereafter. We have perused the inquiry officer's report and find that the inquiry officer has examined the evidence carefully and has arrived at the conclusion of guilt on the part of the applicant by proper application of mind.

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7. A copy of the report of the inquiry officer was, as usual, made available to the applicant and he was allowed to represent in the matter. After considering the representation filed by the applicant and the report of the inquiry officer and also after granting a personal hearing to the applicant, the disciplinary authority has found it proper to agree with the findings of the inquiry officer and has thereafter proceeded to punish the applicant as above. The appellate authority has, after a proper application of mind, up-held the order passed by the disciplinary authority. We do not find anything wrong with the same.

8. We find no substance in the plea advanced by the applicant that the findings of the inquiry officer are based on no evidence or that the findings are in any manner perverse. The applicant's contention that Smt. Sunita Sharma, one of the women, he is supposed to have illicit relations with has not been examined as PW and, therefore, the statement made by her in the FIR No. 365/95 of P.S. Shakarpur, which is concerned with the same event cannot be relied upon, does not convince us. We also fail to appreciate the applicant's plea that the statement of SI Kartar Singh also cannot be relied upon. It is this S.I., who had reached the spot on getting information of the quarrel/fight at G-52, Laxmi Nagar, and it is he who had proceeded immediately therefrom to the LNJP Hospital where the applicant and the aforesaid Smt. Sunita Sharma were found. He is an important witness and his testimony can always be relied upon in a departmental proceeding. In the same way the statement

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of Smt. Sunita Sharma made in the aforesaid FIR has also been relied upon. The inquiry officer has, in our view, correctly refused to rely on the statement of PWs Smt. Ashok Kumari and her daughter-in-law (Smt. Bala) and, therefore, the objection raised by the applicant in this regard is found to be untenable. The Inquiry Officer has also correctly relied upon the statement of DW 2 (Kumari Babita Singh). The Inquiry Officer has supplied copies of all the documents relied upon to the applicant during the proceedings. The respondents have denied the applicant's contention that certain documents were not supplied to him by stating that the applicant was free to ask for copies of whatever documents he needed, but he did not make any request for the supply of copies of any document. The plea of non-supply of documents is also accordingly found to be untenable and is rejected.

9. In a departmental proceedings, the rules of evidence normally applied in criminal cases, are not applied and conclusions are required to be reached on the basis of preponderance of probabilities. This is what the inquiry officer and the disciplinary authority have done. We cannot find any fault with the same. Furthermore, we must observe that this Tribunal is not expected to reappraise the evidence and thus we cannot go into the details of evidence, witness by witness, and try to reach our own conclusions in regard to the guilt or otherwise of the applicant. The decisions taken by the disciplinary authority and the appellate authority are found to be in order.

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10. In the circumstances aforesated, the OA  
fails and is dismissed without any order as to costs.

S. A. T. Rizvi

(S.A.T. RIZVI)  
MEMBER(A)

Ashok Agarwal

(ASHOK AGARWAL)  
CHAIRMAN

( pkr )