

CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH

OA.No.1626 of 2000

New Delhi, this 15th day of May,2001

HON'BLE SHRI KULDIP SINGH, MEMBER(J)

HON'BLE SHRI M.P.SINGH, MEMBER(A)

Constable Yadram

R/o Vill: Bahadpur post: Intoli

Tehsil: Rajgarh

Dist: Alwar

Rajasthan

... Applicant

(By Advocate: Shri Anil Singhal)

versus

1. Govt. of NCT of Delhi
through Commissioner of Police
Police Headquarters
I.P.Estate
New Delhi

2. Addl. Commissioner of Police
PCR & Commn, PHQ
I.P.Estate
New Delhi

3. D.C.P.
Police Control Room, PHQ
I.P.Estate
New Delhi

... Respondents

(By Advocate: Shri Ram Kaxwar)

ORDER(Oral)

Shri M.P. Singh, M(A)

By filing this OA under Section 19 of the Administrative Tribunals Act, 1985, applicant has sought relief by praying for direction to quash and set aside departmental enquiry order dated 22.9.1998 (Annexure A-2), summary of allegation dated 6.10.1998 (Annexure A-3), the charge dated 8.2.1999 (Annexure A-4), show-cause notice dated 1.4.1999 (Annexure A-6) punishment order dated 29.7.1999 (Annexure A-8), the appellate order dated 8.5.2000 (Annexure A-10) collectively and



direct respondents to restore his pay and increments and to treat his period of suspension as spent on duty for all purposes with all consequential benefits.

2. Briefly stated, the facts of the case are that applicant who is working as a Constable in Delhi Police, has been charged for misconduct of involving himself in corrupt activities and dereliction to duties. The charges levelled against applicant are that he, along with HC Karan Singh and ASI Ishwar Singh, while posted at PCR Van Z-50 based at Dwarika near Madhu Vihar from 8 PM to 8 AM on the night intervening 5/6.7.1998, reached at Block No.16, Sector-5, Dwarika and started beating the Chowkidar Narain Singh and other labourers. They also beat one Om Prakash, the Supervisor when he intervened. This beating was done by HC Karan Singh and ASI (Dvr) Ishwar Singh Tyagi. They also overturned a drum full of mobil oil. The Supervisor Om Prakash gave his statement to Shri Ranvir Singh, ACP South-West Zone, PCR during the enquiry that the PCR staff demanded Rs.5000/- from him. During the enquiry it was verbally told by one Ajay Raj Karan, the site Engineer that the PCR staff had taken Rs.100/- from him on 4.7.1998. Applicant was placed under suspension with effect from 15.7.1998 vide office order dated 15.7.1998. A departmental enquiry was conducted and the

with

enquiry officer concluded the enquiry and held that the charge against applicant was not proved. The disciplinary authority disagreed with the finding of the enquiry officer and issued a show-cause notice on 1.4.1999 concluding that on perusal of the file there is sufficient evidence to prove the charge. Applicant submitted a detailed representation on 20.4.1999. The disciplinary authority vide order dated 27.7.1999 imposed the penalty of forfeiture of two years of his approved service with cumulative effect and his pay was reduced by two stages in the time scale of pay from Rs.3575/-P.M. to Rs.3425/-P.M. for a period of two years. Applicant filed an appeal before the appellate authority against the order dated 29.7.1999. The appellate authority vide order dated 8.5.2000 rejected the appeal. Aggrieved by this, he has filed this OA.

3. Respondents in their reply have stated that a departmental enquiry was initiated against HC Karan Singh, ASI Ishwar Singh and Const. Yad Ram (applicant) for their gross misconduct, involving themselves in corrupt activities and dereliction to duty in that they were detailed for duty at PCR Van Z-50 based at Dwarka, Near Madhu Vihar from 8 PM to 8 AM on the night intervening 5/6.7.1998 in Sector-5 Dwarka and started beating the Chowkidar Narain Singh and other labourers. They also beat one Om Prakash, the Supervisor




when he intervened. This beating was done by HC Karan Singh and ASI Ishwar Singh Tyagi. An enquiry officer was appointed to hold the enquiry, who completed the same and submitted his findings concluding that the charge against applicant and his co-defaulters was only partly proved to the extent of going there and beating the labourers but not conclusively. However, the disciplinary authority found that there is sufficient evidence to prove the charge. Therefore, a copy of the findings along with observations of disciplinary authority was served upon the applicant seeking his representation. He submitted his representation on 20.4.1999. The disciplinary authority after taking into consideration the representation of applicant and the material available on record, imposed the penalty of forfeiture of two years of his approved service with cumulative effect. An appeal against the order of disciplinary authority was filed by applicant which was rejected by the appellate authority. According to respondents, the enquiry was held in accordance with the instructions contained in Rule 16 (iii) & (v) and there is no violation of any rule. The order of the disciplinary authority is legal and reasoned and there is no force in the plea taken by applicant.




4. Heard both the learned counsel for rival contesting parties and perused the record.

5. During the course of the arguments, the learned counsel for applicant submitted that as per the summary of allegations (Annexure A-3) applicant was not involved in the beating of Chowkidar Narain Singh and other labourers. The only charge levelled against the applicant was that he was involved in corrupt activities, which charge has not been proved. The disciplinary authority in his note of disagreement has not given any reason for disagreeing with the finding of the enquiry officer. He has simply stated that there is sufficient evidence to prove the charge. The learned counsel for applicant further submitted that from the aforesaid averment made by him, it is quite clear that it is a case of no evidence. On the other hand, the learned counsel for respondents submitted that charges have been partly proved. As per the findings of the enquiry officer, the allegation of beating is proved but with reasonable doubt. The learned counsel for respondents, however, admitted as far as applicant is concerned, he was not involved in the beating of labourers, Chowkidar Narain Singh and the Supervisor Om Prakash.




6. After hearing both the learned counsel and perusing the record placed before us, we find that from the summary of allegations it is quite clear that applicant was not involved in the beating of labourers, Narain Singh and Om Prakash. It has been stated in the summary of allegations that beating was done by HC Karan Singh and ASI (Dvr) Ishwar Singh Tyagi. As far as the other allegation of corrupt activity is concerned, the same has not been proved during the enquiry. The disciplinary authority has not based his finding on any material evidence. Hence we are of the considered view that it is a case of no evidence.

7. In the light of the above discussions, the OA is allowed and the impugned orders, i.e. departmental enquiry order 22.9.1998 (Annexure A-2), summary of allegation dated 6.10.1998 (Annexure A-3), the charge dated 8.2.1999 (Annexure A-4), show-cause notice dated 1.4.1999 (Annexure A-6) punishment order dated 29.7.1999 (Annexure A-8) and the appellate order dated (Annexure A-10) are quashed and set aside. Respondents are directed to grant all the consequential benefits to applicant, within a



period of three months from the date of receipt
of a copy of this order.

8. OA is disposed of as above. No order as to
costs.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

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