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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1645/2000

New Delhi, this the 16th day of July, 2001

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

HC Rajinder Kumar,
S/o Shri Late P.L.Sharma
R/o H.No.WZ-3, New Hira Park, Dichau Road
Najafgarh, Delhi - 43.

...Applicant

(By Advocate Shri Yogesh Sharma)

V E R S U S

1. Govt. of NCT of Delhi : through
The Chief Secretary
Old Secretariat, Delhi.
2. The Commissioner of Police
Headquarters, Delhi Police, IP Estate
New Delhi.
3. The Joint Commissioner of Police
(Training) Delhi Police Hqrs.
IP Estate, New Delhi.
4. The Additional Commissioner of Police
PTC, Delhi Police, Jharoda Kalan
New Delhi.

...Respondents

(By Advocate Ms.Jasmine Ahmed)

O R D E R (ORAL)

BY HON'BLE SHRI SHANKER RAJU,

In this OA the applicant is a Head Constable has assailed an order dt.2-5-2000, whereby he has been imposed a minor punishment of Censure after a Departmental enquiry & a recovery of Rs. 7000/- has been ordered against him to be deducted from his salary @ of Rs. 1000/- per month. The applicant has also assailed an order passed by the appellate authority dated 25-7-2000 confirming the order of punishment.

2. Briefly stated the applicant, at the relevant time was posted as Head-Constable at Motor Training Section. Vehicle No.DBP-8162 (Swaraj Majda)

was off road and on inspection it has been found that the same has not been maintained properly. In a preliminary enquiry it was found that the vehicle was giving excessive smoke and nobody had taken care to check the vehicle and as a result due to overheating the engine got seized, with the result an amount of Rs. 35,000/- (Rs. thirty five thousand only) has been incurred on repairing of the same. After the prosecution and defence evidence, the enquiry officer in his findings came to the conclusion that the charge regarding making forged entry in the service book is not proved, but the other charge has been proved to the extent that as the vehicle was not maintained properly & the regular service was not being done. And also the driver has failed to check water in the radiator which resulted in its seizure. The negligence of the applicant for recovery of loss has been proved.

3. The learned counsel for the applicant though has taken several contentions to assail the impugned orders at the outset drawn our attention to the summary of allegation and contended that the same is incomplete & vague and is lacking in material particulars. It is stated that the individual role of the applicant as to his negligence in omission and commission has not been reflected from the summary of allegation and no specific instances have been given to establish as to in what manner the applicant has acted negligently which resulted in loss to the vehicle. In this case it is stated that in absence of material particulars and a specific role assigned to the applicant he has been deprived of a reasonable

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opportunity to effectively defend the charges and has been held guilty on merely suspicion without any material to show or prove his negligence in the enquiry. The learned counsel for the applicant has placed reliance on the ratio of Hon'ble Apex Court in the case of Transport Commissioner, MADRAS - 5 Versus A. Radhakrishnamurthy (1995 SCC (L&S) 313) to contend that if the Chargesheet is uncertain & vague and does not disclose any particulars of the mis-conduct, the same is not tenable in the eyes of law.

4. On the other hand the learned counsel for the respondents stated that the enquiry has been conducted in accordance with procedure laid down and sufficient material and particulars of the alleged mis-conduct of the applicant has been furnished in the summary of allegation as well as in the charge. Though specifically the contention of the applicant is not controverted in para 5 (a) of the reply, but yet it is stated that as the charge was prepared by the Enquiry Officer on the basis of evidence tendered in the enquiry and as the same is approved by the disciplinary authority, there is no illegality in the enquiry. It is also contended that it was noticed that the vehicle was given excessive smoke, but yet no staff member of the M.T. Section got initiative to get the vehicle checked which resulted in seizure of the engine and loss incurred on repair of the vehicle which has rightly been recovered equally from the salaries of the delinquent officials.


5. We have carefully considered the rival contentions of the parties and perused the material on record.

6. On perusal of the summary of allegation as well as the charge, we are of the confirmed view that the same suffers from an inherent defect and illegality as the material particulars regarding the negligence of the applicant have not been specified. There has not been any specific particulars as to the omission or commission of the applicant which had resulted in Govt. vehicle being damaged and repaired incurring the loss of Rs. 35,000 (Rupees thirty five thousand only). The negligent of the applicant has been presumed on the basis that as the vehicle has been utilised on duty despite being not in good working conditions. In this regard it is relevant to mention that M.T. staff consist of Sub-Inspector and a Sub-Inspector of MT, ASI of Technical Division and the applicant. This has not been specified as to when the vehicle was reported to the applicant, who in turn allowed it to go on road despite defects. It has also not been brought in the summary of allegation as to the defect being pointed out by the Driver of the vehicle to the applicant. As such mere allegations against the applicant holding him responsible for negligence without any specific role to be assigned to him vitiates the enquiry, summary of allegation as we understood the lacuna of material particulars. In our considered view and also in absence of the material particulars being incorporated in the summary of allegation there has been a denial of reasonable opportunity to the applicant to defend in D.E. and more particularly keeping in view the findings of the Enquiry Officer, where in the conclusion no specific role has been assigned to the applicant to come to the

conclusion of guilty against him. We are of the view that the enquiry has been vitiated on this count and in this view of ours we are verified by the ratio of Transport Commissioner, Madras' case (supra). Specifying the exact particulars in detail in the summary of allegation put to the delinquent officials is also a mandatory requirement under Rule 16 (i) of the Delhi Police (P&A) Rules, 1980. As respondents have also not specifically controverted the contentions of the applicant. To this regard, we are of the view that being a mandatory, procedural requirement its non-compliance has vitiated the enquiry. The applicant has been prejudiced in his defence.

6. In the result and having regard to the discussions made above, we accordingly partly allow the present OA and set aside the impugned order of punishment as well as the appellate order. As a result the respondents are directed to refund the recovered amount to the applicant. However, it would be open to the respondents, if so advised to take up the departmental proceedings from the stage of summary of allegation by incorporating the necessary relevant details of the alleged mis-conduct and to complete the same within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju
(SHANKAR RAJU)
MEMBER (J)


(GOVINDAN S. TAMPI)
MEMBER (A)

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