

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO. 165/2000

New Delhi this the 27th day of January, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SMT. SHANTA SHASTRY, MEMBER (A)

Ex. Ct. George N.S. No.2572/PCR  
S/O Skaria N.M.,  
R/O RZ H-43, Raghu Nagar,  
Pankha Road,  
Delhi-110045.

... Applicant

( By Shri E. J. Verghese, Advocate )

-Versus-

1. Commissioner of Police,  
Police Headquarters,  
M.S.O. Building, I.P. Estate,  
New Delhi.
2. Addl. Commissioner of Police  
[PCR & Commn.], Police Hqrs.,  
MSO Building, I.P. Estate,  
New Delhi.
3. Dy. Commissioner of Police,  
Police Control Room, Delhi.
4. Ct. Nasiruddin M.K.  
No.1912/A, 569/NW PAP,  
R/O D-Y/256, Sultan Puri,  
New Delhi.
5. ASI Swaminath Shukla,  
No.3716/D, P.S. Ashok Vihar,  
New Delhi.

... Respondents

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

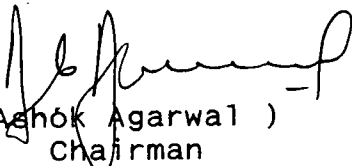
Order passed in disciplinary proceedings holding the applicant guilty of the charges levelled against him and a consequent order of penalty of dismissal from service are impugned in the present application. All the three authorities, namely, the enquiry officer, the disciplinary authority as also the appellate authority in their orders passed on

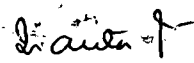
3.6.1999, 11.9.1999 and 22.12.1999 have concurrently found that the charges levelled against the applicant were proved.

2. It is inter alia contended on behalf of the applicant that present disciplinary proceedings cannot be sustained on account of an order of acquittal which has been passed in favour of the applicant by the criminal court. We have perused the order passed by the criminal court and we find that Ms. Licy who had been examined in the criminal court was not made available for cross examination. This was ~~the~~ substantial ground which has led to the acquittal of the applicant. As far as Ms. Licy is concerned, she was made available in the disciplinary proceedings. She was examined in chief and thereafter cross examined. Since the order of acquittal was passed on the ground that she had not made herself available for cross examination, the acquittal can be said to have been passed on technical grounds. Similarly, her evidence which was not available for cross examination in the criminal court was made available in the disciplinary proceedings. Hence, additional evidence had become available in the disciplinary proceedings. In the circumstances, the case falls under the exception carved out in clauses (a) and (e) of Rule 12 of Delhi Police (Punishment and Appeal) Rules, 1980 which has been relied upon by the applicant in support of his contention. As far as the finding of guilt is concerned, the same is based on evidence which has been led in the disciplinary proceedings. It is

impermissible for this Tribunal to reappreciate evidence and to come to a finding contrary to the one arrived at by the disciplinary authority.

3. Present application, in the circumstances, we find, is devoid of merit and the same is accordingly summarily rejected.

  
( Ashok Agarwal )  
Chairman

  
( Shanta Shastri )  
Member (A)

/as/