

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1805/2000

Wednesday, this the 8th day of August 2001

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

Ex. Constable Jaidev No.1101/NW
S/O Shri Harpal Singh, aged 39 years
Previously employed in Delhi Police
R/O Vill. & P.O.-Mandi, Police Station
Distt. Mujjaffar Nagar, Uttar Pradesh

...Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. Union of India
Through its Secretary
Ministry of Home Affairs
North Block, New Delhi
2. Joint Commissioner of Police
Northern Range,
Police Head Quarters, I.P. Estate
MSO Building, New Delhi.
3. Addl. Deputy Commissioner of Police
North West District,
Police Station Ashok Vihar,
Delhi.

..Respondents

(By Advocate: Shri George Paracken)

O R D E R (ORAL)

By Hon'ble Shri S.A.T. Rizvi:-

The applicant, a Constable in Delhi Police, has been dismissed from service by the respondents' order of 18.1.2000 (Annexure A-3) on the following charge:-

"CHARGE

On the night intervening 15/16.2.99, Ct. Jaidev Singh No.1101/NW and DHG/Ct. Vijay Kumar No.4991/DHG were detailed on patrolling duty vide DD.No.58-B dated 15.2.99 on Omni Motorcycle No.DL-1S-J-8505 in the area of Police Station Adarsh Nagar. At 11.50 P.M. (15.2.99) an information was received vide DD. No.27 P.P.New Subzi Mandi from I/C Commander 35 HC Ram Kumar No.1224/PCR that the driver of truck No.GJ-19-T 1945 has been pulled out by the staff of P.S. Adarsh Nagar near out gate of New Subzi Mandi and there is traffic jam. On receipt of this information, SHO/Ad. Nagar

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alongwith SI Rakesh Kumar I/C P.P. New Subzi Mandi and staff of P.S. Adarsh Nagar rushed to the spot and found that truck No. GJ-19-T-1945 was parked on GTK Road. On enquiry it was revealed that Sh. Kashmir Singh s/o Joginder Singh r/o Village Kakkar Kalan P.S. Lapoke. Distt. Amritsar (Punjab) is working with Supreme Roadways Transport Company 38, Transport Centre, Azadpur as driver on truck No. GJ-19-T-1945. Sh. Pragat Singh @ Bagga s/o Sh. Gurmel Singh r/o Village Durgapur, Distt. Amritsar (Punjab) was helper/second driver on the truck. They had loaded the truck for Surat and after taking the diesel from the Petrol pump situated near out gate of New Subzi Mandi Azadpur they were going on their way. They were intercepted by Ct. Jaidev No. 1101/NW and DHG/Ct. Vijay Kumar No. 4991/DHG who were on omni motorcycle No. DL-1S-J-8505 and demanded money as illegal gratification. When they refused to pay the money they threatened to impound the truck and pulled out the helper/2nd driver Pragat Singh @ Bagga from the slowly moving truck. As a result he fall down on the road and his left to was passed under the rear tyre of the moving truck. Pragat Singh @ Bagga had got injury and he was taken to Hospital by the PCR Van. He was got medically examined vide M.L.C. No. 2026/99 from Hindu Rao Hospital, Delhi. A case FIR No. 100/99 dated 16.2.99 u/s 384/511/323/34 IPC P.S. Adarsh Nagar was registered and both the accused were arrested in the case. Constable Jaidev Singh No. 1101/NW remained in Judicial Custody till 2.3.99.

Therefore, I charge you Constable Jaidev Singh No. 1101/NW for the above act which amounts to grave misconduct, negligence, carelessness and unbecoming of a Police Officer in the discharge of official duties, under the provision of Delhi Police (P&A) Rules, 1980."

2. The aforesaid orders passed by the disciplinary authority have been upheld by the appellate authority by his order of 19.7.2000 (Annexure A-4). Both these orders have been impugned by the applicant who prays that the said orders be quashed and set aside and he be reinstated with all ^{of the} consequential benefits.

3. The learned counsel appearing in support of the applicant has raised the contention that the enquiry made

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by the enquiry officer is vitiated on the ground that copies of the statements of the driver and the cleaner were not supplied to him and that he had no occasion to cross-examine the aforesaid driver/cleaner. He also submits that the applicant has not been identified by any of the PWs examined during the enquiry and that the FIR lodged in the corresponding criminal case also does not contain the name of the applicant. 13

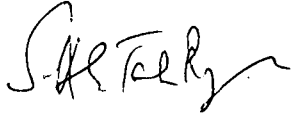
4. In order to appreciate the submissions made by the learned counsel, we have been taken through the enquiry report and the orders passed by the disciplinary authority as well as the appellate authority. We find that the driver and the cleaner could not be examined as despite the efforts made by the respondents, they could not be traced. In the circumstances, the respondents have placed reliance on the statements of the driver and the cleaner recorded by the Police during the investigation of the aforesaid criminal case. This was done with the permission of the disciplinary authority. We also find that the applicant had not made any specific written request for the supply of the copies of the statements of the driver and the cleaner. He cannot, therefore, at this stage advance an argument based on the non-supply of the aforesaid documents. We find that in the enquiry report, there is a clear mention of the fact that the applicant was arrested following the Police investigation in the aforesaid criminal case. Thus his identity got established beyond any manner of doubt. That the applicant was also involved in the act of dragging down

A the driver from the truck leading to injury is amply borne out by the statements of the PWs 1, 5 and 7. In a departmental enquiry, the respondents are not supposed to judge the situation as is normally done in a criminal trial. ^{case.} The preponderance of probabilities is enough to determine the guilt of an official in a departmental proceeding. Judged by this standard, there is no doubt that the applicant is guilty in the manner brought out in the charge. As regards the use to which statement of the driver and the cleaner recorded during the Police investigation in the aforesaid criminal case was put, we find that such a course of action is permissible under Rule 16 (3) of Delhi Police (Punishment & Appeal) Rules, 1980. All that is required is that copies of such statements should be supplied to the delinquent official. Considering the pleadings placed on record, we are not prepared to believe that copies of the aforesaid statements were not supplied to the applicant. The applicant had full opportunity to ask for copies of the aforesaid documents but he has not done so in writing at any stage during the proceedings. The only thing that he has mentioned in this regard is that the statement of the aforesaid witnesses were not recorded in his presence. We thus find no force in the aforesaid plea raised by the applicant.

5. Thus, in short, the departmental proceedings against the applicant have been conducted properly and in a fair manner and every possible opportunity was made available to the applicant to state his case in defence.

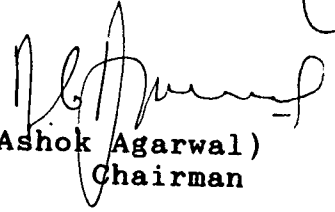
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6. For all the reasons outlined in the preceding paragraphs, the OA is found to be devoid of merit and is dismissed without any order as to costs.



(S.A.T. Rizvi)
Member (A)

/sunil/



(Ashok Agarwal)
Chairman

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