

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2415 OF 2000

New Delhi, this the 22nd day of July, 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.K. NAIK, MEMBER (A)

S.I. Anuj Aggarwal
R/o B-18 B Jawahar Park
Devli Road, Khanpur
New Delhi. Applicant

(By Advocate : Ms. Jasvinder Kaur)

Versus

1. Commissioner of Police
Police Head Quarters
I.P. Estate
New Delhi.
2. Deputy Commissioner of Police
South Distt. New Delhi
Police Head Quarters
I.P. Estate
New Delhi. Respondents

(By Shri George Paracken, Advocate)

ORDER (ORAL)

JUSTICE V.S. AGGARWAL

Earlier, this application was disposed of on 3.10.2001 directing that the Joint Commissioner of Police was not competent to decide the appeal. However, in face of the decision of the Delhi High Court, on 12.5.2002, this Tribunal had reviewed the said order. It is in this back-drop that the present application has been listed and is being heard.

2. By virtue of the present application, the applicant seeks quashing of the order passed by the disciplinary authority dated 26.11.1999 imposing the

AS Agg

penalty of censure on the applicant and the order dismissing his appeal on 7.7.2000.

3. Applicant is a Sub Inspector in Delhi Police. The facts alleged in the departmental proceedings were that on basis of a news item published in Rashtriya Sahara, an inquiry was conducted. It revealed that one Ms. Assiya Shereen who was working as Information Assistant in the Ministry of Information and Broadcasting and had been temporarily residing at 59-B, Mehar Chand Building on 16.7.1999 at 10.20 PM while she was returning after making a call at STD Booth, some bad elements teased her near her home. When she protested, they started beating and slapping her. She reported the matter to the applicant and requested for medical examination. Instead of taking necessary action against the culprits and sending her for medical examination, he asked the said complainant to wait for some time on the pretext that no lady Police Constable was available. She felt harassed and herself went to the All India Institute of Medical Sciences.

4. A show cause notice was issued to the applicant. He submitted his reply that he was performing night emergency duty at Police Post Madangir when the complainant, referred to above, approached him. He had reached the spot and discussed the matter with the landlord of the complainant.

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Since there was no lady Police Constable at the Police Post, he had asked the complainant to wait. The complainant did not want to wait and had left for All India Institute of Medical Sciences. He denied that she was badly treated. The applicant was heard and the disciplinary authority recorded that the applicant could have requisitioned the services of a lady Police officer from the Control Room/South District or should have brought the facts to the notice of the senior officers. In any case, he should not have kept the daily diary pending when a cognizable offence was brought to his notice. Recording that the applicant acted in an irresponsible manner, the abovesaid penalty was imposed.

5. The learned counsel for the applicant contended that the disciplinary authority did not look into the preliminary enquiry report which supported the defence of the applicant and in any case, there is no proper application of mind. According to him, the postponing of the registration of the First Information Report was due to the fact that the complainant was not sure about the other person who had man-handled her.

6. We have heard the learned counsel for the applicant as well as the respondents.

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7. At the outset, we only state the principle involved that it is for the disciplinary authority to go into the nature of the allegations. In judicial review, this Tribunal will not sit as a court of appeal. If proper procedure has not been adopted and there is some martial available on preponderance of probabilities, there will be little scope for interference.

8. The applicant was on duty. A cognizable offence was brought to his notice, but he did not record the First Information Report immediately. The recording of the same has nothing to do with the availability of a Police lady Constable. Otherwise also, the disciplinary authority had specifically recorded that the services of a lady constable could well have been requisitioned and it was not so done. In the absence of any other fact, we do not find that there is any scope for interference. Proper procedure had been adhered to.

9. Resultantly, the application must be held to be without merit. Accordingly, the same fails and is dismissed. No costs.

Announced.

SK NAIK
(S.K. NAIK)
MEMBER (A)

V.S. Aggarwal
(V.S. AGGARWAL)
CHAIRMAN