

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2533/2000

New Delhi, this the 11th day of May, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Ex. Constable Amerjeet Singh No. 1630/E
S/o Shri Sukhbir Singh, aged 30 yrs,
R/o Vill-Majri Azim, P.O.-Farlul Pur,
Distt- Fateh Garh Sahib
Punjab.

...Applicant.

(By Advocate Shri Rajeev Kumar)

V E R S U S

Union of India : Through

1. Secretary
Ministry of Home Affairs
North Block, New Delhi.
2. Lt. Governor of Delhi
5, Shyam Nath Marg
Delhi- 54.
3. Commissioner of Police
Delhi
Police Head Quarters, I.P.Estate
M.S.O.Building
New Delhi.
4. Sr. Addl. Commissioner of Police
A.P. & T.
Police Head Quarters, I.P.Estate
New Delhi.
5. Dy. Commissioner of Police,
3rd Bn, DAP, Kingsway Camp,
Delhi.

...Respondents.

(By Advocate Shri Harvir Singh)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

In this application, the applicant has challenged the punishment orders passed by the respondents, which have been passed after holding an enquiry against him. These orders are dated 19-2-1996 and appellate authority's order dated 19-6-1997. Against the order dated 19-6-1997 passed by the Sr. Addl. Commissioner of Police under the

Vs:

Provisions of Rule 25 (B) (iii) of the Delhi Police (Punishment & Appeal) Rules, 1980, the applicant had filed an appeal, ^{which} has also been considered and rejected by the Commissioner of Police and the copy of the same has been sent to the applicant vide memo dated 8-12-1999.

2. In this application the applicant has prayed for setting aside the aforesaid orders and in particular the impugned order passed by the authority under Rule 25 (B) of the aforesaid Rules, enhancing the punishment from forfeiture of one year approved service permanently for a period of five years with consequential deduction in pay to one of removal from service.

3. Shri Rajiv Kumar, learned counsel for the applicant has submitted that the order enhancing the penalty against the applicant cannot be sustained in law in the light of the Full Bench judgement of the Tribunal in Rajpal Singh Vs. UOI & Ors. (OA 77/1997), copy placed on record.

4. We have seen the reply filed by the respondents and have also heard Shri Harvir Singh, learned counsel for the respondents.

5. In the Full Bench judgement of the Tribunal in Rajpal Singh's case (supra), the Tribunal had, after examining the relevant provisions of the Delhi Police Act, 1978, and the Rules made thereunder, come to the conclusion that Rule 25 (B) of the Delhi Police (Punishment & Appeal) Amendment Rules, 1983, is

18.

ultravires the provisions of the Act. This was in answer to the query whether Rule 25 (B) as amended, empowering the Commissioner of Police etc. by way of review to revise and enhance the punishment inflicted on ^{an} employee went beyond the competent of the Rule making authority. In the present case, the impugned order dated 19-6-1997 clearly states that the enhancement of the penalty has been done under the provisions of ^{the} Rule 25 (B) (iii) of the Rules by the Sr. Addl. Commissioner of Police, while enhancing the punishment to that of removal from service.

6. In the facts and circumstances of the case and having regard to the aforesaid Full Bench judgement of the Tribunal in Rajpal Singh's case (supra), the enhancement of penalty by the impugned order dated 19-6-97 and the subsequent rejection of the appeal filed by the applicant vide order dated 8-6-1998 cannot, therefore, be sustained in law. It is also relevant to note that the applicant has stated that he had himself not filed any appeal against the original order passed by the disciplinary authority dated 19-2-1996. Although, in the present application, he has prayed for setting aside that order also, Learned counsel for the applicant has submitted that he is not praying ^{for} this relief i.e. against the penalty order dated 19-2-1996.

7. In the result, for the reasons given above, the impugned orders dated 19-6-1997 and dated 8-6-1998 passed by the respondents are quashed and set aside.

^{Accordingly,}
8. ^{the} respondents are directed to reinstate the applicant in service within a period of two months

^{18.}

from the date of receipt of a copy of this order. In the circumstances of the case, the applicant shall not be entitled to any back-wages during the period he was not in service i.e. from the date of removal to the date of reinstatement, but shall be entitled for other benefits, like seniority, in accordance with the Rules & Law.

No order as to costs.

(Govindan S. Tampi)
Member (A)

(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

/vikas/