

Central Administrative Tribunal
Principal Bench

O.A. 262/2000

New Delhi this the 27 th day of April, 2001

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

Rajbir Singh,
S/o late Shri Maan Singh,
Head Constable No.86-C,
R/o Village & PO Nangli Poona,
Delhi-110 036. Applicant.

(By Advocate Shri Sama Singh)

Versus

1. Commissioner of Police,
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi-110 002.
2. Joint Commissioner of Police/
Addl. Commissioner of Police,
Northern Range, Delhi Police
Headquarters, MSO Building,
I.P. Estate, New Delhi-110 002.
3. Deputy Commissioner of Police,
Central District, Darya Ganj,
New Delhi-110 002. Respondents.

(By Advocate Shri George Paracken)

O R D E R

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

In this application, the applicant has impugned the validity of the punishment orders issued by the respondents dated 26.6.1997, 24.12.1997 and 2.2.1999.

2. The above orders have been issued by the respondents after holding the departmental proceedings against him under the provisions of the Delhi Police Act, 1978 (hereinafter referred to as 'the Act') and the Rules made thereunder. One of the main grounds taken by Shri Sama Singh, learned counsel is that the punishment orders are illegal and there is multiplicity of punishments, which

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is not sustainable in law. According to him, the following punishments have been awarded to the applicant, namely, (1) forfeiture of one year approved service permanently for a period of one year; (2) proportionate reduction in pay; (3) stoppage of increments during the period of reduction in pay; and (4) after expiry it will have the effect of postponing of future increments. Learned counsel has contended that the 4th part of the punishment, that is postponement of future increments of the applicant is totally outside any one of the punishments, as provided in Section 21 of the Act. He has relied on the judgement of the Supreme Court in State Bank of India Vs. T.J. Paul (1999(4) SCC 759). He has contended that this vitiates the punishment orders, apart from the fact that multiple punishments cannot be imposed. According to him, under Section 21 (d) and (e) of the Act, only forfeiture of approved service and reduction in pay has been provided and nothing more. He has, therefore, contended that the punishment order dated 26.6.1997 is contrary to the provisions of Section 21 of the Act, which has been allowed to be continued in the appeal as well as by the order passed in revision dated 9.2.1999. Learned counsel has submitted that the three punishments awarded to the applicant by the impugned orders are distinct and separate and, therefore, they are not legal under the provisions of Section 21 of the Act.

3. Another plea taken by the learned counsel for the applicant is that no financial loss has been caused to the Department and, therefore, no punishment order could have been imposed against him.

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4. The third ground taken by the learned counsel for the applicant is based on the statement made by PW-1 in the Departmental proceedings (pages 46-47). He has submitted that the Car in question was released by Constable Brij Kishore, who was working as assistant to the applicant, who had admitted that he released the Car. In the circumstances, learned counsel has submitted that there is no fault on the part of the applicant for which he should be punished.

5. The respondents in their reply have controverted the above averments and we have also heard Shri Ajesh Luthra, learned counsel. Learned counsel has relied on the Full Bench judgement of this Tribunal in ASI Chander Pal Vs. Delhi Administration & Anr. (OA 2225/93) (copy placed on record). According to him, the same issue that has been raised by the applicant has been looked into and decided by the order dated 18.5.1999 in Chander Pal's case (supra). In that case, it has been held that the penalty order imposed on the applicant, which is on the similar lines as the impugned order in the present case, is in accordance with law. He has also submitted that the learned counsel for the applicant has referred to the fourth limb of the punishment as merely the impact of the order of punishment which is for forfeiture of one year approved service permanently entailing proportionate reduction in pay during which period he will not earn increments, that is, ¹⁸ that will have the effect of postponing his increments. Learned counsel has, therefore, submitted that there is no illegality in the impugned punishment orders. He has also submitted that there is also no

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irregularity in the conduct of the Departmental inquiry proceedings and the punishment orders are based on the evidence which are available on record. He has, therefore, prayed that as the charge against the applicant has been proved, he has been correctly punished and the O.A. may, therefore, be dismissed.

6. We have considered the pleadings and the submissions made by the learned counsel for the parties.

7. With regard to the first contention raised by the learned counsel for the applicant, we are unable to agree with him in the light of the orders passed by the Full Bench of the Tribunal dated 18.5.1999 in Chander Pal's case (supra). In that case, the Tribunal after considering similar contentions, as taken by Shri Sama Singh, learned counsel on the relevant provisions of the Act and the Rules, has held that necessary implication of forfeiture of approved service is that the position of the delinquent officer permanently goes down in the seniority list. In so far as the reduction in pay is concerned, it is also implicit in the penalty of forfeiture of approved service which also has the effect of withholding of increment.

^{Full Bench, therefore, 18-}
They came to the conclusion that the penalty of forfeiture of 'X' years approved service permanently entailing reduction in pay by 'X' stages for a period of 'X' years with the condition that the delinquent police official will not earn increments during the period of reduction and on the expiry of that period the reduction will have the effect of postponing the increments, is in accordance with law. That judgement is fully applicable to the facts and the impugned orders passed in this case. In the

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circumstances, the contentions of Shri Sama Singh, learned counsel that the punishment orders are vitiated on the ground of multiple punishments are rejected.

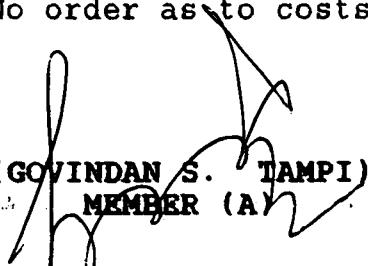
8. Similarly, we do not find any force in the submissions made by the learned counsel that unless there was financial loss caused to the respondents/Department, no punishment can be imposed. The judgement of the Supreme Court in **T.J. Paul's case (supra)** relied upon by the applicant has rejected a similar plea taken by the respondent in that case, that actual loss was not proved and it was held that the Inquiry Officer had rightly returned the findings of gross misconduct against the respondent. In the present case, the Inquiry Officer has come to the conclusion that that Car was released from the Malkhana by Constable Brij Kishore, who was working as assistant to the defaulter. His defence that Car was not released by him but by Constable Brij Kishore has not been accepted which is based on sound reasoning. Even if no loss is caused to the respondents, that would not absolve the applicant of his duty and the conclusion of the Inquiry Officer that he cannot escape responsibility by throwing the blame on his assistant, cannot also be faulted.

9. It is also settled law that while exercising the powers of judicial review, the Courts or the Tribunal cannot interfere with the findings of the Inquiry Officer or the competent authority where they are not arbitrary or utterly perverse or substitute its own decision for that of the competent authority (see the judgements of the Hon'ble

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Supreme Court in Union of India Vs. Parma Nanda (AIR 1989 SC 1185) and Government of Tamil Nadu Vs. A. Rajapandian (AIR 1995 SC 561).

10. In the circumstances of the case, we find no merit in this application or any justification to interfere with the impugned punishment orders imposed against the applicant. The O.A. accordingly fails and is dismissed. No order as to costs.


(GOVINDAN S. TAMPI)
MEMBER (A)


(Smt. LAKSHMI SWAMINATHAN)
VICE-CHAIRMAN (J)

'SRD'