

Central Administrative Tribunal
Principal Bench: New Delhi

OA-351/2000

New Delhi this the 10th day of April 2000

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. V.K. Majotra, Member (A)

Surender Gupta (1683/E)
S/o Shri Ram Nivas Gupta
R/o 107/9, Krishan Garh,
Vasant Kunj, New Delhi.

2. Abdul Hussain (1610/E)
S/o Sh. Kamroodin R/o Vill
Huchpuri, Distt. Faridabad
Haryana.
...Applicants

(By Advocate: None)

Versus

1. Govt. of NCT Delhi through its
Chief Secretary
5, Sham Nath Marg, Delhi.

2. Joint Commissioner of Police
(New Delhi Range),
Police Headquarter, IP Estate,
New Delhi.

3. Dy. Commissioner of Police
East District, Delhi.

...Respondents

(SI Kamal Singh Tyagi, departmental
representative)

ORDER (Oral)

By Mr. Justice Ashok Agarwal, Chairman

Following orders were passed by this Tribunal
in this case on 1.3.2000:-

"The applicants were working as Constable in Delhi Police, disciplinary proceedings were initiated against them for their grave misconduct misuse of official powers ulterior motive and dereliction in the discharge of their official duties, etc. The enquiry related to an incident which had occurred on 9.1.1997 at about 10.45 PM in front of Mayur Vihar, Phase-I Checkpost when the complainant along with his friend was proceeding in a TSR. The aforesaid officers/applicants stopped the said vehicle and checked the licence and papers. Applicants however after verifying the licence and the documents in respect of the vehicle assaulted them and then took them to check post, when an amount of Rs. 16000/- was

(b)

found on their person, the aforesaid officials asked for proof of that amount. The said police officials brought out a knife from the table and threatened to plant on them a ~~false~~ case of decoit. They were also harassed till midnight.

By an order dated 18.11.1996, the aforesaid officials were placed under suspension. A regular departmental enquiry was initiated against them. The enquiry officer however found that the charges framed against them were not proved and absolved them of the imputations levelled against them. The disciplinary authority disagreed with the findings of the enquiry officer and issued a show cause notice dated 28.1.1998 and the same was received by the officials/applicants. They submitted their representation against the show cause notice. The disciplinary authority by his order dated 30.4.1998 disagreed with the findings of the enquiry officer and imposed the penalty of stoppage of annual increments (Next) for a period of three years with cumulative effect. The suspension period was directed to be treated as period not spent on duty.

The aforesaid order was challenged by the applicants by filing an appeal however the same was dismissed vide order dated 15.10.1999. The aforesaid orders are impugned in the present OA.

We have perused the report of the enquiry officer and orders passed by the disciplinary authority as also the one passed by the appellate authority. We, *prima-facie*, find that the same are not speaking orders in the sense the same do not discuss the material evidence on record for arriving at the findings which have lead to the passing of the impugned orders.

In the above circumstances, we direct to issue notices with a direction to the respondents to place the entire record in respect of the disciplinary proceedings for our perusal on the next date of hearing. Post on 10.4.2000".

2. The departmental representative has produced the record of disciplinary proceedings. We have perused the same and we are satisfied that the disciplinary authority has not passed a speaking order while disagreeing with the findings of the enquiry

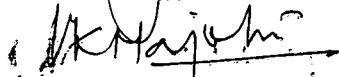
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(2)

officer and while holding the applicant guilty of the misconduct after applicant has been absolved of the charges by the enquiry officer. Similar is the position in regard to the order passed by the Appellate Authority. The same is also not a speaking order. The same does not give adequate reasons for arriving at the findings of the guilt against the applicant. Since both the aforesaid orders are non-speaking order, the same, namely, one passed by the disciplinary authority on 30.4.98 at Annexure-A and one passed by the appellate authority on 15.10.99 at Annexure-B are quashed and set aside and the matter is remitted back to the disciplinary authority who will proceed to pass a speaking order containing detailed reasons ^{for} of his difference with the enquiry officer. A copy of the order to be passed, without saying, will be duly served on the applicant by the disciplinary authority.
to enable applicant to represent against the same before suitable order
Applicant will thereupon be entitled to prefer an appeal The appellate authority again will dispose of the appeal by passing a detailed and reasoned order. The applicant, it goes without saying, will be once again entitled to approach this Tribunal in case he is not satisfied with the orders passed by the disciplinary authority and appellate authority.

3. Present OA is accordingly allowed in the aforesated terms. No order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member (A)

cc.