

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 484/2000
& MA No. 692/2000

NEW DELHI, THIS THE 30TH DAY OF MARCH, 2000.

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

Narinder Singh
S/o Shri Kishan Chand
R/o Village Pitampura
Delhi.

...Applicant

(Sh.S.K.Gupta, proxy for Sh.B.B.Raval,
counsel for the applicant)

vs

1. Union of India
through the Secretary
Ministry of Home Affairs
Government of India
New Delhi-110001.
2. The Commissioner of Police
Delhi Police
Police Headquarters
Near I.T.O.
New Delhi-110002.

...Respondents

ORDER (ORAL)

JUSTICE ASHOK AGARWAL:

A penalty of forfeiture of one year's approved service permanently by reducing the pay of the applicant by one stage from Rs.6375/- to Rs.6200/- in the time scale of pay for a period of one year with a direction that during the period of reduction, the delinquent will not earn increments of pay and that on expiry of that period, the reduction will have the effect of postponing his future increments which is imposed upon the applicant in disciplinary proceedings conducted against him is impugned in the present OA.

2. Disciplinary proceedings were initiated against the applicant vide order dated 16.7.1996 and the same was entrusted to Shri Amarjeet Singh, the then Assistant Commissioner of Police, Ashok Vihar, New Delhi. After transfer of the aforesaid Shri Amarjeet Singh, the disciplinary enquiry was entrusted to Shri K.K.

Vyas, Assistant Commissioner of Police, Ashok Vihar, Delhi. The chargesheet served on the applicant contained the following charge:-

"It is alleged that the investigation of case FIR No.128 dated 19-5-95 u/s 394/412/34 I.P.C. P.S. Rohini, Delhi was transferred to special Staff/N.W.Distt. and the same was transferred to S.I.Narender Singh No.D/3015. S.I. submitted a report in the court of Shri I.C.Tiwari, ASJ, Tis Hazari, Delhi that accused Charanjit disclosed that he has given 6 Kgs.of gold to accused Suresh who was in judicial custody. Shri I.C.Tiwari, ASJ asked you as to why you have not filed any application for taking police remand when there was suspicion that 6 Kgs.of gold was given to accused Suresh and you did not give any satisfactory answer on this querry. It appears that you have not done fair investigation and failed to obtain the police remand of accused while he was in judicial custody in order to get recover the 6 Kgs. of gold with some ulterior motive, resulting the accused was released on bail.

The above act on the part of you, S.I. Narinder Singh No.D/3015, amounts to grave misconduct, negligence malafide intention and dereliction in the discharge of your official duties which renders liable to be dealt with departmental action under the provision of Delhi Police (P & A) Rules, 1980."

3. In the enquiry two prosecution witnesses were examined, PW-I, ASI Mahipal Singh and PW-II, ASI Ramesh Kumar. In defence, applicant examined DW-I Shri Ashok Chhikara, Advocate. By an order passed on 26.8.97, the enquiry officer has found the aforesaid charge proved against the applicant. A copy of the finding of the enquiry officer was served on the applicant on 8.9.1997 vide order dated 28.8.1997 for the purpose of enabling him to make a representation against the same. Applicant submitted his representation on 31.9.1997. Disciplinary proceedings were thereafter forwarded to Shri A.S.Toor, Deputy Commissioner of Police, I.G.I., Airport, New Delhi. A personal hearing was offered

Jeff

to the applicant by the aforesaid disciplinary authority on 3.4.1998. By an order passed on 20.4.1998, the disciplinary authority has rejected the contentions raised by the applicant in his representation as also in his oral submissions made during the personal hearing on 3.4.1998 and has accepted the finding of the enquiry officer and has proceeded to pass the impugned order of penalty against the applicant.

4. Applicant carried the aforesaid order in appeal before Dr. Chandra Prakash, Joint Commissioner of Police (Operations) Delhi, who by an order passed on 28.1.1999 has dismissed the same. Aforesaid order of the disciplinary authority dated 20.4.1998 as also that of the appellate authority dated 20.1.1999 are impugned in the present O.A.

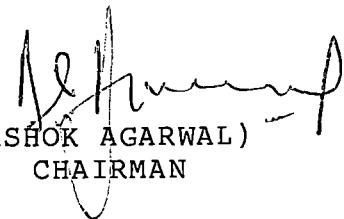
5. The advocate appearing on behalf of the applicant is absent. We have perused the entire record and are proceeding to dispose of the O.A. on merits. A perusal of the finding of the enquiry officer will show that the same is based on good and sufficient evidence which was produced before him. The order of the enquiry officer is a well reasoned/speaking order. It has discussed the evidence on record and has found that the charge levelled against the applicant has been duly proved. The same is the position in respect of the order passed by the disciplinary authority as also that of the appellate authority. Both are well reasoned and speaking orders. The same shows that the applicant had failed to perform his duties as required of him in the matter of investigation and prosecution in respect of an offence punishable u/s 39/412 read with section 34 of the I.P.C. In that he had failed to make an application seeking police custody of the accused. As a consequence, the contraband property being 6 Kgs. of gold could not be recovered and the accused managed to obtain orders of bail. If one has regard to the allegations found proved which finding has been arrived at concurrently by three

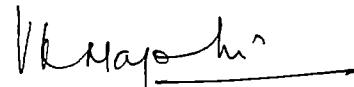
NGA



-4-

authorities, namely the enquiry officer, the disciplinary authority as also the appellate authority, the order of penalty cannot by any stretch of imagination be held to be disproportionate to the misconduct found against the applicant. Present O.A. in the circumstances, we find is devoid of merit. The same is accordingly dismissed in limine.


(ASHOK AGARWAL)
CHAIRMAN


(V.K. MAJOTRA)
MEMBER (A)

sns