

(22)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

DA No. 659/2000

New Delhi, this the 26th day of September, 2002.

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri B.N.Som, Vice Chairman (A)

Ravinder Kumar (Const.)
S/o Shri Dharam Pal
R/o Q.No.374, Type-I
A-Vihar, New Delhi.

(By Shri S.K.Gupta, Advocate)

.... Applicant.

Versus

1. Govt. of NCT of Delhi
through Chief Secretary
5, Sham Nath Marg
Delhi.
2. Commissioner of Police
Police Headquarters
MSO Building, IP Estate
New Delhi.
3. Addl. Commissioner of Police
(PCR & Communication)
Police Headquarters
IP Estate, New Delhi.
4. Dy. Commissioner of Police
Police Control Room
Delhi.
5. S.R.Mongane
Enquiry Officer / ACP (PCR)
Delhi.

.... Respondents.

(By Ms. Renu George, Advocate)

ORDER (Oral)

By Smt. Lakshmi Swaminathan, Vice Chairman (J)

This application has been filed by the applicant impugning the charge-sheet, the disciplinary authority's order of punishment passed by the respondents dated 15.7.1998, withholding his future increments upto three years with cumulative effect and the Appellate Authority's order dated 22.12.1997 rejecting his appeal.

2. This application was earlier disposed of by Tribunal's order dated 26.03.2001 directing the respondents to decide the revision petition which was pending at that time. Liberty was also granted to the applicant that if he was still aggrieved by the orders passed in the revision petition, he shall be at liberty to file a fresh OA.

12/

Thereafter the Tribunal on 13.04.2002 in CP No. 591/2001 revived the present OA which is listed for hearing.

3. We have heard Shri S.K.Gupta, learned counsel for the applicant and Ms. Renu George, learned counsel for the respondents and perused the pleadings and the relevant documents on record.

4. While the applicant was working under PCR, he was suspended vide order dated 22.10.1997 along with two other officials of the Delhi Police and Departmental inquiries were initiated against all these three persons. The relevant portion of the summary of allegations is reproduced below:-

"It is alleged that ASI Raghu Nath Singh, No.5193/PCR Const. Ajit Singh, No. 3038/PCR and Const.(Dvr.) Ravinder Kumar No. 2527/PCR (applicant) were detailed for duty at PCR Van 0-98 from 9.00 p.m. to 6.00 a.m. on the night intervening 12/13.10.1997. Around 11.10 p.m. O-I directed T-26 i.e. SI Ram Kesh, No.D/2830 to report near Rani Public School, Sant Nagar, Burari Delhi where the staff of PCR Van Regn.No.0770 was allegedly harassing a women. The T-26 reached the spot and made an enquiry. Shri Khajan Singh, Kamal Mohan and Prem Gupta resident of Sant Nagar made a complaint against one Mrs. Usha W/o Shri Sardar Singh, R/o 30/1, Sant Nagar, Delhi, regarding her indulging in immoral activities causing mental and social harassment to the neighbours of the locality. Moreover, the staff of PCR Van 0-98 also harassed the public on the instigation of Mrs. Usha. An enquiry into the matter was also conducted by Inspector Jagdish Kumar of PCR and it revealed that many residents of the locality were extremely annoyed with the behaviour of PCR Van staff 0-98 who were detailed for duty on the night 12/13.10.1997. Around 9.30 p.m. the PCR staff 0-98 visited at House No. 15/23, Sant Nagar alongwith Mrs.Jaswant Kaur and Mrs. Usha and asked about Kamal Mohan i.e. the husband of Jaswant Kaur, but the cousin of Kamal Mohan told the PCR staff that he (Kamal Mohan) had gone to just now but the PCR staff harassed the cousin of Kamal Mohan. Meanwhile the people of the locality gathered there and stated that Mrs. Jaswant Kaur made a false complaint against her husband i.e. Kamal Mohan because he did not want to make a close intimacy with Mrs. Usha as she was involved in the immoral activities. During the enquiry it further revealed that the said PCR staff used to visit at Usha's house frequently and stay there till late night and harassed the public on her instigation. For the above lapse ASI Raghu Nath Singh No.5193/PCR, Const.Ajit Singh No.3038/PCR and Const.Ravinder Kumar No.2527/PCR have been placed under suspension vide this Office order No.14493-14518/HAP(P-II) PCR dated 22.10.1997."

5. In the Departmental proceedings held against the applicant and the other two persons under the provisions of the Delhi Police Act, 1978 and the Rules made thereunder, six prosecution witnesses, five defence witnesses and one court witness were examined. The main contention of the learned counsel for the applicant is that on a perusal of the statements of the above referred to witnesses, they have stated nothing against the applicant to justify infliction of the punishment order passed by the respondents. In short, his contention is that this is a case of no evidence and, therefore, the punishment orders should be quashed and set aside with consequential benefits. This has also been stated as the grounds under Para 5 of the OA and learned counsel has taken us through the statements of the prosecution witnesses in detail during the hearing to support his contention.

6. On the other hand, learned counsel for the respondents has controverted the above submissions. According to the respondents, the Departmental inquiry has been conducted in accordance with the Rules and it is not a case of no evidence. Learned counsel has drawn our attention to the fact that a number of witnesses have been examined in the Departmental inquiry and the Inquiry Officer in his report dated 14.05.1998 has discussed the evidentiary value of the statements made by the witnesses and thereafter had come to the conclusion that the charge has been proved against the applicant beyond any reasonable doubt. She has also submitted that with respect to one of the co-accused in the Departmental proceedings ASI, Raghu Nath Singh, after due consideration of the evidence which was brought on record in the Departmental proceedings, he has been exonerated. She has, therefore, submitted that there

YB


is no infirmity in Departmental proceedings and the punishment orders passed by the respondents against the applicant are justified and has prayed that the OA may be dismissed.

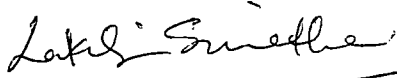
7. We have carefully considered the aforesaid submissions of the learned counsel for the applicant and the documents on record. We agree with the submissions of Ms. Renu George, learned counsel for the respondents that this is not a case where the conclusion can be arrived at that this is a case of no evidence. The evidence on record has been fully discussed and analysed by the Inquiry Officer in his report who has given reasons why he accepts certain evidence and rejects some other witnesses' statements. The fact that the incident had occurred on the night of 12/13.10.1997 which has been inquired into by the staff of PCR Van No. DL-1A-0770 which was located near Sant Nagar Public School in harassing some women in which the applicant was also on duty has not been in any way denied by the applicant. In the circumstances of the case, we are unable to agree with the contentions of Shri S.K.Gupta, learned counsel for the applicant that this is a case of no evidence and, therefore, the punishment orders should be quashed and set aside. It is settled law that it is not for the Tribunal to substitute its own decision for that of the competent authority or to reappraise the evidence to arrive at a different conclusion which is not even the contention of the learned counsel for the applicant. (See Union of India Vs. Parma Nanda (AIR 1989 SC 1185), Managing Director, ECIL Vs. B.Karunakar and Drs. (JT 1993(6) SC 1) and Govt. of Tamil Nadu Vs. A. Rajapandian (AIR 1995 SC 561)). We find that there was sufficient and relevant material on record before the disciplinary authority and the appellate authority to impose the punishment orders of withholding applicant's future increments which are neither arbitrary nor illegal. Therefore, in the facts and circumstances of the case we find no justification to interfere in the matter.

26

We have also considered the other contentions raised by the learned counsel for the applicant but do not find any merit in the same.

8. In the result, for the reasons given above, C.A. is dismissed. No order as to costs.


(B.N. Som)
Vice-Chairman (A)


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

/shyam/