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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 693/2000

New Delhi: this the 17 day of APRIL, 2001.

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A).

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Inder Singh No. 101/PCR (PIS No. 28750 327)

C/o Mrs. Avnish Ahlawat, Advocate,

243, Lawyers' Chambers,

Delhi High Court,

New Delhi

.....Applicant.

(Shri Mohit Madan proxy for Mrs. A. Ahlawat )  
Advocate.

Versus

1. Govt. of NCT of Delhi,  
through  
Commissioner of Police,  
Delhi Police,  
Police Headquarters,  
New Delhi.

2. Addl. Commissioner of Police,  
(PCR & Commr) MSO Building,  
IP Estate,  
Delhi Police,  
New Delhi.

3. The Addl. Commissioner (Control Room ),  
Delhi Police, MSO Building, IP Estate,  
New Delhi. ....Respondents.

(By Advocate: Shri Ram Kaur)

ORDER

S.R. Adige, VC (A):

Applicant impugns the disagreement Note dated 11.1.99 (Annexure-A); the disciplinary authority's order dated 17.2.99 (Annexure-B) and the appellate authority's order dated 1.10.99 (Annexure-C). He seeks consequential benefits.

2. Applicant along with Driver Dalbir Singh and Gunman Narinder Singh was proceeded against departmentally jointly on the allegations (Annexure-D) that while they were detailed for duty on the night of 26/27.5.98 in PCR Van No. DL-1A-0360 near the red light at Mall Road, they were found extorting Rs. 50/- from a Truck Driver Raju. When

checked by Inspector Jagdish Kumar, Driver Dalbir Singh was caught red handed and a currency note of Rs. 50/- bearing No. 3AL-300334 was recovered from him, which was later deposited vide DD entry No. 8 dated 27.5.98. The statements of the truck driver Raju, his brother Room Singh and helper Raj Kumar were also recorded. A report of the incident was lodged vide No. 25 dated 26/27.5.98.

3. All then were placed under suspension w.e.f. 27.5.98 vide order dated 2.6.98, but were subsequently reinstated.

4. The Inquiry Officer in his report dated 15.12.98 (Annexure-I) held the charge as not proved.

5. Disagreeing with the findings, the disciplinary authority communicated the reasons for his disagreement vide impugned Note dated 11.1.99 to the three defaulters for representation, if any.

6. The defaulters submitted their representation, and was also given a personal hearing by the Disciplinary Authority on 15.2.99.

7. After going through the material on record and concluding that PWs 4 and 5 who were the main witnesses had turned hostile because they had been won over, during the DE, the Disciplinary Authority held the 3 defaulters guilty of the charge, and imposed upon applicant the penalty of forfeiture of 5 years' approved service permanently, reducing his pay by 5 stages in the time scale for a period of 5 years from the date of issue of the order, during which period they would not earn increments, and on the expiry of which the reduction would have the effect of postponing future increments of pay. The period of suspension was

treated as period not spent on duty.

8. Their appeals were rejected by order dated 1.10.99 against which applicant has filed the present OA.

9. We have heard the parties, perused the materials on record and considered the matter carefully.

10. We note that along with the Memo of allegations, a list of witnesses together with the gist of evidence they were to lead was supplied to the defaulters. One of the witnesses was Inspector Jagdish Kumar who was to prove the incident report submitted to ACP, North Zone, the seizure Memo of Rs. 50/- and also prove that Rs. 50/- was recovered from Driver Dalbir Singh. Inspector Jagdish Kumar was PW6 in the DE and his testimony is on record. His testimony is that just as Driver Dalbir Singh was putting the 50 rupee Note in his pocket which had been given to him by Truck Driver Raju, the Inspector caught hold of his hand and recovered the 50 rupee Note from him bearing No. 3AL 300334. The seizure Memo in respect of that 50 rupee currency note was later exhibited in the DE as Ex. PW-2/A and its seizure from his person has not been denied by Dalbir Singh during the course of the DE.

11. In the grounds taken in the OA applicant has sought to dissociate himself from the recovery of the 50 rupee note from Driver Dalbir Singh. In the grounds it has been contended <sup>that</sup> in the summary of allegations, the only allegations were that Driver Dalbir Singh demanded and accepted Rs. 10/- from a truck driver which money was recovered from him, and there was no allegation against applicant. This ground is wholly without merit because the Memo of allegations specifically refers to staff of PCR Van No. DL IA-0360 to be found extorting

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Rs. 50/- from Truck Driver Raju. As applicant was undeniably one of the staff of the aforesaid van on the night of 26/27.5.98, he cannot claim that he was outside the purview of the allegation or the charge.

12. If indeed applicant was unaware that driver Dalbir Singh had taken the 50 rupee note from Truck Driver Raju on the night of the occurrence, that would have been the line of the defence at the start of the DE itself, but this <sup>is</sup> not so. In fact all 3 defaulters in their joint statement dated 11.11.98 made to the IO (Annexure-H) have tried to throw the blame on Inspector Jagdish Kumar. Indeed in the appeal petition dated 5.3.99 (Annexure-K) also this is the line which has been taken to challenge the disciplinary authority's order, so much so that it has been contended that when the appellant appeared before the disciplinary authority in the OR on 15.2.99 Inspector Jagdish Kumar came hurriedly there and said that in case the delinquents were not punished, he would be humiliated. As pointed out by the disciplinary authority in his order, it is inconceivable that an Inspector would falsely implicate 3 innocent persons for no reasons at all. If the Inspector had any animus towards the defaulters, it should have been reported to the senior officers but there is nothing on record.

13. From the facts and circumstances discussed above, this is not a case of no evidence. The impugned orders have been passed by authorities competent to pass the same, and no infirmity in the conduct of the proceedings have been brought to our notice, serious enough.

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to prejudice applicant in his defence. The principles of natural justice have been observed, and the penalty inflicted upon applicant is also not disproportionate to the gravity of the misconduct.

14. The OA is dismissed. No costs.

*A. K. Sarathi*  
( DR. A. VEDAVALLI )  
MEMBER (J).

*S. R. Adige*  
(S. R. ADIGE)  
VICE CHAIRMAN (A).

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