

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

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...
O.A.No.1533 of 1989

Dated New Delhi, this the 3rd day of May 1994

Hon'ble Mr Justice S. K. Dhaon, Vice Chairman(J)
Hon'ble Mr B. K. Singh, Member(A)

Shri Dharam Pal
S/o Shri Bhag Mal
R/o H.No.110, Gali No.3
D. Block, South Anarkali
DELHI-51

... Applicant

By Advocate: None present

VERSUS

1. The Commissioner of Police
Delhi, M.S.O. Building
I.P. Estate
NEW DELHI
2. The Addl. Commissioner of Police
Traffic, I.P. Estate
New Delhi, M.S.O. Building
NEW DELHI
3. The Deputy Commissioner of Police/
Traffic, M.S.O. Building
I. P. Estate
NEW DELHI
4. Shri Chetan Dass
Inspector/SHO
P.S. Tirlokpur
East District
DELHI
5. Shri Dharam Pal Singh
Traffic Inspector
Tilak Nagar Circle
DELHI
6. The Deputy Commissioner of Police
East District
Shahdara
DELHI

... Respondents

By Advocate: Shri Naveen Batra,
Proxy for Shri M. C. Garg

O R D E R
(Oral)

Mr Justice S. K. Dhaon, VC(J)

A number of reliefs have been claimed in this OA:

- (a) To quash the impugned order of suspension
dated 5.2.88 passed by the respondent no.3;

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- (b) To quash the impugned order dated 3.6.88 by which the subsistence allowance of the applicant was reduced by 50%, passed by the respondent no.3;
- (c) To quash the impugned order dated 26.2.88 by which the departmental enquiry of the applicant has been initiated by the respondent no.3;
- (d) To prohibit the respondent no.4, Shri Chetandass, Inspector/SHO, from proceeding further in respect of the departmental enquiry against the applicant;
- (e) To prohibit the respondent no.5, Shri Dharam Pal Singh, Traffic Inspector, Tilak Nagar Circle to proceed further in respect of the departmental enquiry pending against the applicant;
- (f) To direct the respondents to pay the subsistence allowance with effect from the date he is not paid the same and to pay the subsistence allowance at the increased rate by 50% from 5.5.88 after the period of three months from the date of suspension;
- (g) To prohibit the respondents from transferring the applicant from Traffic unit to IXth Bn. of the DAP, Delhi and declare the impugned order of transfer dated 5.10.88 null and void, being illegal, arbitrary, malafide and unwarranted;
- (h) Any other relief(s) which the Hon'ble Tribunal deems fit and proper in the circumstances of the case be granted in favour of the applicant and against the respondents.

2. A counter-affidavit has been filed on behalf of the respondents. The material averments in it are these. The applicant is facing a number of departmental enquiries. In a departmental enquiry held on 29.1.88 against the applicant, he misbehaved with the Enquiry Officer and this has led to an enquiry. He was placed under suspension and his subsistence allowance had been reduced under FR.53. He was transferred during pendency of the order on administrative grounds in view of serious reports received against him.

3. It appears that for some reason, the departmental enquiry is proceeded ex-parte against the applicant. On 4.4.90, this Tribunal passed the following order:

"Heard both the counsel.

The learned counsel for the applicant stated that the applicant was not being paid the subsistence allowance, as such, he could not attend the departmental enquiries. The department, however, held the enquiries ex-parte, as communicated to him in November, 1989.

The learned counsel for the respondents stated that the subsistence allowance in favour of the applicant was being drawn right from February, 1988 but the applicant did not come to receive it from the office of the respondents.

It is, however, accepted on behalf of the applicant that he is now drawing the subsistence allowance since August, 1989. The learned counsel for the applicant prayed that ex-parte proceedings should be set aside.

After hearing the counsel for both the parties and considering the matter, we direct that the applicant should submit a proper application to the concerned departmental authorities to allow him to participate in the enquiries from the starting stage. The departmental authorities should consider the application and advise the applicant of their decision within two weeks from the date on which the application is filed. It would be in the interest of justice to have the participation of the applicant in the enquiries.

Admit. The respondents may file counter within four weeks with a copy to the applicant who may file rejoinder, if any, within two weeks thereafter.

List before the Deputy Register on 21.5.90.

The enquiries may be started after the disposal of the representation of the applicant.

A copy of this order be given to the counsel for the parties."

4. In pursuance of the aforesaid order of the Tribunal dated 4.4.90, it is presumed that the proceedings must have commenced. We further presume that during these four years, some final order must have been passed in the departmental proceedings. If the petitioner had been exonerated, ^{the} that was end of the matter. If, however, he was punished, that gave him a fresh cause of action.

5. Since there is no application seeking amendment of this OA, we are not in a position to give any relief to the applicant.

6. In our opinion, this application has become infructuous in so far as the prayer for quashing the departmental proceedings is concerned. The application is dismissed but with no order as to costs.


(B. K. Singh)
Member (A)


(S. K. Dhaon)
Vice Chairman (J)

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