

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1692/89 198
T.A. No.

DATE OF DECISION 12.02.90

Shri Arjun Singh

Applicant (s)

Applicant in person

Advocate for the Applicant (s)

Union of India Versus & Ors.

Respondent (s)

Shri M. M. Sudan

Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P. K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D. K. Chakravorty, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *NO*
3. Whether their Lordships wish to see the fair copy of the Judgement? *NO*
4. To be circulated to all Benches of the Tribunal? *NO*

JUDGEMENT

(delivered by Hon'ble Shri P. K. Kartha, V.C.)

The applicant, who is working as an Inspector of Delhi Police, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for quashing the impugned show-cause notice dated 7.12.1987, whereby it was proposed to impose the minor penalty of censure on him as also the impugned order of censure passed by the disciplinary authority on 2.5.1988, and the impugned orders passed by the Appellate Authority on 24.11.1988. The Tribunal directed that notice be issued to the respondents on admission. The respondents have filed their counter-affidavit and the applicants stated that he did not wish to file his rejoinder. The case was listed for admission on 2.2.1990, when we heard the

applicant in person and the learned counsel for the respondents.

2. By the impugned show-cause notice dated 7.12.87 at Annexure A-2, p.16 of the paper-book, the applicant was informed that on a complaint dated 31.12.1986, submitted by Assistant Commandant, 35 Bn., CRPF, to the Commissioner of Police, Delhi, and as per the orders of the Commissioner of Police, an inquiry was held first by Shri A.D. Souza and completed by Shri Virender Rai, D.C.P./1st Bn., D.A.P. The allegations against the applicant were that on the night between 30.11.1986 and 1.12.1986, he came to D.A.P. Quarters Guard fully drunk, used foul language against C.R.P.F. officers and against one, Shri Gian Singh. On 1.12.86 at about 7.00 a.m., he again came to the C.R.P.F. quarters and started abusing Shri Gian Singh, hurting his religious feelings and also used filthy abuses against him. From these two incidents it appeared that the applicant indulged in rash acts under the influence of liquor. He had also produced the evidence that he did not have the anti-Sikh feeling as he donated Rs.102/- towards Relief Fund and had a Commendation Card-I. This indicated that he may not be having anti-Sikh feeling as such but under the influence of liquor, he would not know as to what he uttered. Keeping in view the circumstances of the case and the statements of the two senior officers of the CRPF, it was mentioned in the show-cause notice that the disciplinary authority felt that the applicant's conduct deserved to be taken seriously. After going through the report of the

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Inquiry Officer and other records available and statements of Shri R.P. Pande, Dy. S.P. and Shri J.N. Chetiapatra dated 2.2.1987, the disciplinary authority relied on them and felt that the allegations against him stood substantiated. He, therefore, called upon the applicant to show-cause why his conduct should not be censured for the said grave misconduct.

3. On 19.12.1987, the applicant denied the aforesaid allegations. He requested that the copies of the following documents be supplied to him to enable him to submit his explanation within the stipulated period:-

- (i) copies of complaints of Shri Gian Singh;
- (ii) copies of statements of all witnesses examined during the inquiry; and
- (iii) copy of the report submitted by the Inquiry Officer.

4. On 25.1.1988, he was informed that he was not entitled for the documents asked for as it was only a case of minor penalty proceedings.

5. Thereafter, the applicant submitted his explanation on 9.2.1988 which was considered by the disciplinary authority before passing the impugned order dated 2.5.1988. The disciplinary authority also had given personal hearing to the applicant as is clear from para.4 of his order.

6. The applicant again wrote to the Appellate Authority on 7.5.1988 requesting for copies of the same documents. This was again rejected. Thereafter, the applicant preferred an appeal to the Commissioner of Police on 6.6.1988 which again was rejected by the impugned order dated 24.11.1988.

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7. The applicant has contended that by denying the documents asked for by him, he was not given reasonable opportunity to defend himself and this is in violation of the principle of natural justice and fairplay.

8. The respondents have stated in their counter-affidavit that the applicant was not given copies of the documents required by him as the proposal was to impose the minor penalty of censure on him. He was, however, given full opportunity to defend himself, including personal hearing.

9. The question whether in a minor penalty proceeding, the delinquent Government servant is entitled to copies of documents or reports on the basis of which the show-cause notice was issued, has been considered by the Supreme Court in Shadi Lal Gupta Vs. State of Punjab, 1973(1) SCC 680. In that case, the Supreme Court has held that the only requirement before imposing minor penalty is that the officer concerned should be given adequate opportunity of making a representation that he may desire to make. There is no provision for examination of witnesses, cross-examination of witnesses and furnishing a copy of the report, all requirements which apply only to the case of imposition of a major penalty.

10. In view of the aforesaid ruling of the Supreme Court, we see no merit in the relief sought in the present application. The application is dismissed at the admission stage itself.

The parties will bear their own costs.

Deekshay

(D. K. Chakravorty)
Administrative Member
12/2/90

Parvin 12/2/90
(P. K. Kartha)
Vice-Chairman (Judl.)