

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1804/1989

New Delhi, dated the 28th April, 1994

Hon'ble Sh.B.N. Dhoundiyal, Member(A)

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Shri Subhash Chander,
Constable No. 1148/SD
New No. 4941/PCR, South Delhi District

.... Applicant

(By Advocate Sh.B.S. Mainee)

Versus

1. Union of India through Ministry of Home, Central Secretariat, New Delhi.
2. Police Commissioner, Delhi Police Headquarters, Indraprastha Estate, Mathura Road, New Delhi.
3. Deputy Commissioner of Police, South District, New Delhi.
4. The Inquiry Officer, Assistant Commissioner of Police, Kalkaji, South New Delhi.

.... Respondents

(By Advocate Shri O.N. Trisal)

ORDER (ORAL)

(Hon'ble Shri B.N. Dhoundiyal, Member(A))

This O.A. has been filed by Shri Subhash Chander Constable No. 1148/SD New No. 4941/PCR challenging the impugned orders dated 23.2.1988 of the Deputy Commissioner of Police and 28.2.89 of the Additional Commissioner of Police imposing the penalty of permanent forfeiture of his entire approved service with corresponding reduction in his pay, treating the suspension period as not spent on duty.

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(8)

2. The respondents case is that constable Subhash Chander while posted in AATS/SD, absented himself from Government duty on 15.11.1986 without any kind of information. He hired a DLY taxi from Jangpura and proceeded to Aligarh with a patient and his friend. While they were returning ^{to} Delhi, they created nuisance on the way for which they were detained by the U.P. Police on 16.11.1986. However, they were released from there on 17.11.1986. Thereafter, they forced the taxi driver to take the taxi to Bharatpur in Rajasthan, but on his refusal they forcibly took possession of the taxi and left for some unknown place. On 18.11.1986, constable Subhash Chander came at P.P.Jangpura and narrated that he had met an accident near Mathura while travelling in the said taxi. The above charges were substantiated on the basis of evidence and he was served with a show cause notice on the basis of findings of the enquiry officer for dismissal. His written reply as well as submission made by him in person were considered by the competent authority and the order of the forfeiture of approved service was passed. The suspension period was treated as not spent on duty. His appeal was duly considered by the Additional Commissioner of Police and the same was rejected vide order dated 28.3.1989.

3. Heard the learned counsel for both the parties. The impugned order has been challenged on the ground that the applicant was not given opportunity to cross examine prosecution witness and the proceedings were not adjourned.

even though, he represented that he was sick. Also the punishment awarded was excessive. A perusal of the enquiry report shows that the applicant was not cooperating after service of summary of allegations hence, the Departmental enquiry was ordered to be conducted ex parte by the Deputy Commissioner of Police vide letter dated 27.5.87.

4. The applicant claims that he was ill and has produced a medical certificate. However, according to his own averments that he fell ill due to Malaria fever and the Medical Officer Incharge of CGHS dispensary advised him rest for 15 days i.e. till 23.5.1987. Charge sheet was served on him much later on 25.8.1987. He had ample opportunities to produce his witnesses and cross examine the prosecution witnesses which he chose not to avail. The Tribunal cannot go into the evaluation of evidence or quantum of punishment as long as proceedings have been carried out in accordance with the rules.

5. In the facts and circumstances of the case, we hold that this is not a fit case for the Tribunal to interfere and the application is hereby dismissed. No costs.

Lakshmi Srinivasan
(Smt. L. Swaminathan)
Member (Judicial)

B. N. Dhoundiyal
(B.N. Dhoundiyal)
Member (A)