

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1881/89

NEW DELHI THIS THE 22ND DAY OF DECEMBER, 1993.

SHRI JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)  
SHRI B.N.DHOUNDIYAL, MEMBER(A)

Shri Paramjit Singh  
Ex-Constable No.4863/DAP  
C/o Shri R.K.Mehta,  
Advocate, Chamber No.464-66,  
Civil Wing,  
Tis Hazari Courts,  
Delhi.

Applicant

BY SHRI SHANKER RAJU, PROXY VS.  
COUNSEL FOR SHRI R.K.MEHTA, ADVOCATE)

1. The Commissioner of Police, VS  
Police Head Quarters,  
I.P.Estate, New Delhi.

2. Deputy Commissioner of Police,  
5th Battalion,  
Delhi Armed Police,  
Delhi

3. Shri Munshi Ram,  
Inspector DAP(Inquiry Officer)  
Delhi Police,  
Delhi.

Respondents

BY ADVOCATE SHRI O.N.TRISHAL.

ORDER(ORAL)

JUSTICE S.K.DHAON:

Disciplinary proceedings were initiated against the applicant. An inquiry officer was appointed. He submitted his report. On 21.7.1983, the punishing authority passed an order of punishment dismissing the applicant from service. On 1.12.1983, the appeal preferred by him was dismissed. On 14.8.89, the revision made by him to the Lt.Governor was rejected. The orders passed by the punishing authority and the appellate authority are being impugned in the present OA.

2. On 18.4.1983, the applicant was a member of the patrol party which was headed by Head Constable Jagdish Chand. At about 3.30 p.m. on that day, somewhere near old Bhatti Mines another party was detected while performing mining operations. Head Constable Jagdish Chand made an attempt to prevent the activities of the other party. The members

of the other party attacked Head Constable Jagdish Chand. He sustained injuries and immediately thereafter he was medically examined for those injuries. The party comprised the Head Constable, aforementioned, the applicant, Constables Balbir Singh, Virender Singh, Samir Singh and Suresh Kumar.

3. The gravamen of the charge against the applicant is that when Head Constable Jagdish Chand was being assaulted, he (applicant) disappeared from the scene of the incident.

4. During the course of the disciplinary proceedings, a copy of the charge was furnished to the applicant. The charge, in substance, is that the aforementioned act of the applicant shows the height of cowardice, gross misconduct and dereliction of official duties.

5. The first contention raised by the learned counsel for the applicant is that the impugned order passed by the punishing authority is not sustainable as he has not recorded any categorical finding that the applicant is guilty of grave misconduct thereby rendering him unfit for Police service. It is true that the punishing authority did not record a specific finding in that behalf. However, it observed that a coward cannot be tolerated in an Armed Force and he cannot be a good Policeman. However, the appellate authority observed:....."The wanton cowardice and dereliction of duty shown by the appellant in a difficult situation like this amounted to grave misconduct and I am of the view the punishment awarded in this case was fully merited."

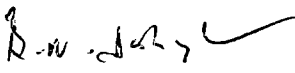
6. On the whole we are satisfied that the two orders, if read together, fulfil the requirement of Rule 8 of the Delhi Police (Punishment & Appeal) Rules, 1980. This contention is, therefore, repelled.

7. The learned counsel next urged that there is no evidence on record to sustain the finding that the applicant had run away from the scene of occurrence. We have perused the statements of the Head Constable Jagdish Chand and Constable Virender Singh. Both of them had categorically stated that when Head Constable Jagdish Chand was being given a beating, the applicant had left the place. They had remained unshaken in the cross examination conducted on behalf of the applicant. Keeping in view the rule of evidence applicable in the departmental proceedings i.e. the rule of preponderance of probabilities, we feel that there is no scope for interference so far as the evidence of the two authorities below is concerned. We have no option but to record a finding that the finding of guilt brought home to the applicant on the basis of the testimony believed by the authorities below is not assailable in this Tribunal.

8. The last contention advanced is that the respondents practised discrimination as against the applicant when they did not proceed departmentally against other Constables who allegedly disappeared from the scene of occurrence. We find that neither in the explanation offered to the show cause notice nor in the memorandum of appeal nor in the

memorandum of the present OA, this point has been taken. However, in the grounds in support of the OA, a vague averment has been made that the respondents have discriminated against the applicant. Even in the grounds no specific plea of discrimination has been raised. The applicant should have stated clearly that he feels aggrieved on the ground of discrimination because no action has been taken against the other alleged erring Constables. Had that been done, the respondents could have come out with some facts. This type of plea cannot be allowed to be raised for the first time in the OA.

9. We find no substance in this OA. It is dismissed. No costs.

  
(B.N. DHOUNDIYAL)  
MEMBER(A)

  
(S.K. DHAON)  
VICE-CHAIRMAN(J)

SNS