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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 190/1989.

DATE OF DECISION: 12-3-1992.

Parma Nand

.....

Applicant.

v/s

Union of India and Anr. ....

Respondents.

CORAM: Hon'ble Mr. T. S. Oberoi, Member (J).  
Hon'ble Mr. P.C. Jain, Member (A).

Shri N.S. Bhatnagar, counsel for the applicant.  
Ms. Ashoka Jain, counsel for the respondents.

JUDGMENT

(delivered by Hon'ble Mr. P.C.Jain, Member)

At the time, the applicant was working as ASI, he was subjected to disciplinary proceedings on charges of misconduct. The Summary of Allegations served on him by the Inquiry Officer is reproduced as below: -

" It has been alleged against ASI Parmanand No.1521/ND that he while posted at PS Tughlak Road, New Delhi on 21.12.86, SI Kashi Ram found a sum of Rs.800/- missing from the pocket of his great coat and later on the said amount was recovered from ASI Parmanand as and when he was suspected by SI Kashi Ram, ASI Parmanand with a view to prompt any possible action against him alleged that the amount of Rs.800/- was taken out from SI Kashi Ram's pocket by Const. Mir Singh No.461/ND and he handed over it to him. In order to verify the version of ASI Parmanand, SI Kashi Ram went to Const. Mir Singh in the barrack of the Police Station. ASI Parmanand also followed him. As soon as SI Kashi Ram uncovered the face of the sleeping Constable Mir Singh, ASI Parmanand removed his guilt and throw him aside. He picked up the Constable from his bed and took him in the room of SI Kashi Ram where he started beating the Constable with the belt after putting off his own coat and watch in presence of SI Kashi Ram. Obviously Const. Mir Singh too retorted and gave two slaps to ASI Parmanand and reported the matter to SHO/Tughlak Road.

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" SHO/Tughlak Road, New Delhi detailed SI Kanchan Singh Emergency Officer to take SI Kashi Ram, ASI Parmanand and Const. Mir Singh to Hospital for getting them medically examined. In the meantime ASI Parmanand slipped away from the Police Station and reached PS Ch. Puri alongwith his wife for making a report of robbery that his watch and money had been snatched by SI Kashi Ram and Constable Mir Singh. SI Kanchan Singh went to PS Ch. Puri New Delhi for taking ASI Parmanand and getting him medically examined where the ASI and his wife abused the Sub- Insp. and threw chappel on his person. Ultimately ASI was got medically examined by the Police of PS Ch. Puri, New Delhi. According to the report of medical officer all of them were not under the influence of liquor.

" Apart from the above, at about 7 AM on the very day, ASI Parmanand in drunked state alongwith his wife had reached at the gate of the residence of Commissioner of Police, Delhi and were adamant to see the Commissioner of Police, Delhi. On receipt of information in this regard from the I/C Guard at the Commissioner of Police's residence, SHO/T. Road, New Delhi himself reached there, the ASI and his wife had thrown a stone on the Govt. Jeep and had picked up another piece of broken brick for similar act. After a great deal they were persuaded to sit in the Govt. vehicle and brought them back to PS Tughlak Road, New Delhi.

" The aforementioned acts on the part of ASI Parmanand No.1521/ND amount to gross misconduct towards his duties rendering him unbecoming of a Govt. servant in violation of rule 3(i)(iii) of CCS (Conduct) rules, 1964, and which makes him liable to be dealt with departmentally u/s 21 of Delhi Police Act, 1978. "

However, after recording the evidence of prosecution witnesses, only the following charge was framed against him: -

" I, Krishan Kumar, Inspector, charge you, ASI Parmanand, No.1521/ND, that while posted in Tughlak Road, Police Station, New Delhi District and on 21-12-1986 you created nuisance in Police Station Tughlak Road. Later on, you reached Police Station Chanakya Puri along with your wife and created

nuisance in the reporting room as well as outside CP's residence after instigating your wife to do so.

" The aforesaid act of you, ASI Parmanand, 1521/ND amounts to gross misconduct and unbecoming of a Police Officer in violation of 3(i)(iii) of CCS Conduct Rules, 1964 which is punishable u/s 21 of Delhi Police Act, 1978. "

The Inquiry Officer found the charge as fully proved. The Disciplinary Authority, vide his order dated 7.6.1988, agreeing with the Inquiry Officer, imposed the punishment of Reduction in rank from ASI to the rank of Head Constable with effect from the date of order for a period of five years and, on restoration, this period of reduction shall operate to postpone future increments for a period of five years. The period of suspension from 5.1.1987 to 20.5.1987 was directed to be treated as period not spent on duty for all intents and purposes. The appeal filed by the applicant was rejected by the Additional Commissioner of Police by a speaking order dated 18-10-1988.

2. The applicant has assailed the above punishment in this case. We have perused the material on record and also heard the learned counsel for the parties.

3. The first ground taken by the applicant is that as per Rule 15(2) of the Delhi Police (Punishment and Appeal) Rules, 1980, a departmental inquiry could be ordered against him only after obtaining prior approval of Additional Commissioner of Police on the point whether a criminal case should be registered and investigated or a departmental inquiry should be held, and as no such permission or sanction under Rule 15(2) of the Rules had been obtained, the departmental inquiry together with the order of punishment are illegal and against the rules. The respondents, in their reply, have controverted this contention. Rule 15(2) of the Delhi Police (Punishment and Appeal) Rules, 1980 (hereinafter to be referred as the Rules) reads as below: -

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" (2) In cases in which a preliminary enquiry discloses the commission of a cognizable offence by a police officer of subordinate rank in his official relations with the public, departmental enquiry shall be ordered after obtaining prior approval of the Addl. Commissioner of Police concerned as to whether a criminal case should be registered and investigated or a departmental enquiry should be held."

From a perusal of the above Rule, it is clear that prior approval of the Addl. Commissioner of Police had to be obtained in cases where the preliminary enquiry discloses the commission of a cognizable offence by a police officer of subordinate rank in his official relations with the public (emphasis supplied). Both the Summary of Allegations served on the applicant and the Charge later on framed against him in the disciplinary proceedings do not attract the conduct of the applicant vis-a-vis the public. Further, the charge actually framed is significantly different from the Summary of Allegations served earlier. Thus, we have no doubt that provisions of Rule 15(2) of the Rules are not attracted in this case.

4. The second ground taken is that the punishment awarded to the applicant is based on no evidence. During the course of our hearing, we were taken by the learned counsel for the applicant through the statements of various witnesses, but we were unable to uphold the contention of the applicant that it is a case of no evidence. There is adequate evidence against the applicant on the charge actually framed against him. Counsel for the applicant urged at the bar that the punishment imposed is excessive. In the case of PARMA NANDA Vs. STATE OF HARYANA AND OTHERS (AIR 1989 SC 1185), it was held that "If there is an enquiry consistent with the rules and in accordance with the principles of natural justice, what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority." We do not find

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that it is a case of no evidence or that the order imposing the penalty is perverse. As such, we are unable to sit on judgment on the quantum of punishment imposed by the competent authority.

5. Learned counsel for the applicant, during the course of his oral submissions, contended that the Inquiry Officer's report was supplied with the punishment order and no show cause notice was given to the applicant before imposing the punishment. As such, he argued that the provisions of Rule 16(xii) of the Rules have been violated. We find that no such ground has been taken by the applicant in the O.A. As such, it will not be appropriate to consider the same.

6. In the light of the foregoing discussion, we are of the considered view that it is not a fit case for intervention by the Tribunal. Accordingly the O.A. is dismissed, leaving the parties to bear their own costs.

(P.C. JAIN)  
MEMBER(A)

(T.S. OBEROI)  
MEMBER(J)