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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench, New Delhi.

O.A. No.225/89

New Delhi, This the 16th Day of February 1994.

Hon'ble Shri C.J. Roy, Member(J)

Hon'ble Shri P.T. Thiruvengadam, Member(A)

1. Shri Ram Pal Singh
S/o Shri Gekul Singh
r/o C/o P.S Gandhi Nagar
Barrack No.2, Delhi
(Head Constable No.523/PCR)
Old No.ASI No.70/N)

..Applicant

By None

Versus

1. Commissioner of Police
Police Headquarters
New Delhi - 110002.
2. Deputy Commissioner of Police
East District, Delhi.
3. Delhi Administration
Through the Home Secretary
Delhi Administration, Delhi.
4. Union of India
Through the Lt.Governor/
Administration, Union
Territory of Delhi, Delhi.

..Respondents

By Advocate Shri D.N. Trisal

O R D E R(Oral)

Hon'ble Shri C.J. Roy, Member(J)

1. The applicant ASI of Police working with the respondent filed this OA challenging the impugned orders Annexure 1, Annexure -2 and Annexure -3 i.e. the Punishment order, the Appellate Order and the Review Order respectively claiming consequential benefits. The applicant alleges that he was implicated on false and baseless case and chargesheet was issued to him on baseless charges. The applicant attaches Annexure A-4, the commendation certificate given to him, A-5 summary of allegations, A-6 copy of list of witnesses before the Enquiry officer, A-8 copy of charge framed and his reply at A9.

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2. After holding enquiry, the enquiry officer filed his report and a show cause notice was given to the applicant by the Deputy Commissioner of Police, East District for which the applicant filed a reply also. After that the Deputy Commissioner of Police passed the impugned order of reduction in rank from the post of A.S.I to that of the Head Constable vide his order dated 17.11.86, copy of which is placed at Annexure -3. Against this order, the applicant filed another appeal to the Additional Commissioner of Police, Delhi Range vide Annexure -2. The applicant also filed a review petition on 28.9.87 to the Commissioner of Police and it was rejected by the Commissioner of Police vide Annexure A-1. The respondents have filed a counter stating that while he was posted at Police Station Gandhi Nagar he took recourse to various tactics to harass certain people with malafide intention during the investigation of case FIR No.472 dated 16.12.82 under section 380 IPC Police Station, Gandhi Nagar, Delhi. It was also alleged that the applicant arrested one accused on 2.3.1983 and got a compromise done to settle the matter between ^{the} parties. Finally he arrested the accused Shri Daulat Ram but no stolen property was recovered at his instance and in the process the applicant has demanded Rs.1000 from the accused party and finally accepted Rs.500 as illegal gratification.

3. Therefore a Departmental Enquiry under Section 21 of Delhi Police Act 1978 was initiated against him. We have seen the departmental enquiry file.

4. The short point for consideration is ^{whether} ~~that~~ the applicant is entitled for the relief claimed by him as mentioned supra. It is admitted by the applicant himself that all documents are given to him and that he has participated in the Enquiry. On the order sheet of the Departmental enquiry file on various dates several ^{regular} steps ~~steps~~ have been taken in accordance with law and the signature of the applicant was obtained. Shri Bhim Singh

was appointed as Enquiry Officer and the charges that were framed against him is reproduced below:-

"It is alleged against ASI Rampal Singh No.80/N that while investigating case FIR No.472 dated 16.12.82 under section 380 IPC P.S. Gandhi Nagar, Delhi, he took recourse to various tactics to harass S/Sh Daulat Ram r/o Village Dhikoli, Distt, Meerat, U.P. and Harsharan Singh r/o Murad Nagar, Distt. Gaziabad, U.P. (both named in the FIR) with malafide intentions. He visited their residences in U.P., a couple of times before effecting their actual arrests on 2.3.85 and 19.4.83 respectively but did not conduct the house search. Similarly, he joined them in the investigation time and again for days together yet he neither effected their arrests nor absolved them of the charge pressurise them to make a compromise with Sh. Khazan Singh, the complainant of the case. On 9.1.83 he actually got effected a written compromise at the residence of Shri Khazan Singh in the presence of witnesses for Rs.6000/- which were to be paid to Shri Khazan Singh by the alleged party. He also demanded Rs.5000/- to help them in the matter and threatened for dire consequences in case his demand was not accepted.

When ASI Rampal Singh realised that the demand of money will not be met, he arrested Shri Daulat Ram on 2.3.83 and conducted search of his house in Village Dhakali, On 4.3.83 on the basis of two false confessional statements of Shri Daulat Ram recorded by him. However not a single item of alleged stolen property was recovered. ASI Rampal Singh then expressed his desired to take Shri Daulat Ram to his in-laws on the pretext of searching Harsharan Singh, the other accused and the stolen property. When requested not to humiliate them in that manner he put forward his demand for Rs.1000/- and finally accepted Rs.500/- as illegal gratification.

The above tactics of harassments and intentional omission and commission during the discharge of official function with malafide intentions on the part of ASI Rampal Singh No.80/N amounts to grave misconduct and unbecoming of a police officer. He has also failed to maintain absolute integrity and thus he has rendered himself liable to be dealt with u/s 21 of the Delhi Police Act, 1978."

4. The only ground on which the applicant challenges the departmental proceedings is that the prosecution witnesses are interested and their evidence should not be believed. There is no presumption that the prosecution witnesses speak falsehood. The respondents have taken a ground in the counter that the applicant has also cross-examined the prosecution witnesses. In departmental proceedings the preponderance of probabilities are sufficient. But in a criminal case, the case should be proved beyond a reasonable doubt. Since it is a departmental proceedings we hold that

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propenderence⁸ probabilities are sufficient and the
prosecution witness could be believed if there are sufficient
facts and circumstances corroborating their evidence. We
have perused the records and the departmental proceedings.
That apart we can not call all the prosecution witnesses
as interested witnesses. The Department has already taken
a lenient view and we do not propose to interfere in the
matter. We feel that the applicant had not made out any
case and the case is dismissed as devoid of merits.
No costs.

P. T. Thiruvengadam
(P.T. THIRUVENGADAM)
Member(A)

C. J. Roy
(C.J. ROY)
Member(J)

LCP