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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.2511/89.

New Delhi, this the 18th day of May, 1994.

SHRI J.P. SHARMA, MEMBER(J)

SHRI B.K. SINGH, MEMBER(A)

Chander Singh,
Son of Shri Hoshiar Singh,
R/o: A-55-B, Mandir Mohalla,
Samepur, Delhi-42.

...Applicant

By advocate : Shri A.S. Grewal.

VERSUS

1. Lt. Governor of Delhi, through Chief Secretary,
Delhi Administration, Delhi.
 2. Commissioner of Police Delhi,
Delhi Police Headquarters,
M.S.O. Building, I.P. Estate, New Delhi.
 3. Additional Commissioner of Police (Operations),
Delhi Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi.
 4. Deputy Commissioner of Police
(Provisions and Lines, Old Police Lines,
Delhi. Delhi.
- ...Respondents

By advocate : Mrs. Avnish Ahlawat.

O R D E R (ORAL)

SHRI J.P. SHARMA :

The applicant at the relevant time was posted as Head Constable in the Central Purchase Agency, Old Police Lines, Delhi along with S.I. Attar Singh. There was a case of gross irregularities regarding purchase of 47 Kgs. of kacha thread. A departmental inquiry was ordered and the summary of allegations was served on the applicant. After examination of the witnesses produced by the administration, Harbans Lal, inquiry officer, ACP, framed the charge against the applicant

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that he got inserted the name of two non-selected firms, i.e., M/s. Rinku Trade Links (India) and M/s. Lucky Stores in the tender notice for purchasing of 47 kilograms of kacha thread through Constable Lakhbir Singh with ulterior motive. No tender notice was issued to above two firms and their tenders were received in a clandestine manner. He has also violated standing order 229 by omitting to maintain the register indicating names of firms of non-reliability. The inquiry officer gave a finding of guilt against the applicant as well as S.I. Attar Singh and by the order dated 6-1-89. The disciplinary authority, DCP, imposed the penalty of forfeiture of 3 years approved service permanently entailing reduction in his pay from Rs.1330 to Rs.1240. The applicant preferred statutory appeal which was dismissed by Additional Commissioner of Police by the order dated 23-5-89. The applicant filed the present application on 5-12-89. He prayed for the grant of the reliefs that the impugned order of punishment be set aside.

2. The respondents contested this application and stated that the applicant in collusion with S.I. Attar Singh and Constable Lakhbir Singh while working in the Central Purchase Agency in the year 1986 committed serious irregularities which amount to misconduct under rule 3(1)(2)(iii) of the CCS (Conduct) Rules, 1964. The joint inquiry was proceeded against the applicant and S.I. Attar Singh and another where they were given adequate opportunity. The disciplinary authority imposed the punishment which was upheld by the higher authorities in appeal. The applicant has no case. The application be dismissed.

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3. We heard Shri A.S. Grewal at length and he has referred to a material irregularity committed in the proceedings of the inquiry where Shri H.C. Bhatia who conducted a preliminary inquiry was examined as PW-7 and deposed against the applicant on the basis of the finding of the preliminary inquiry. It is argued by the learned counsel that the report of the preliminary inquiry was not furnished to the applicant and as such whole proceedings of the inquiry are vitiated as adequate opportunity was not afforded to cross-examine the witness Shri Bhatia. We have seen the reply filed by the respondents in which they have denied the contentions of the applicant averred in para5(a). The applicant in the rejoinder, however, reiterated the contentions raised in the original application. When we questioned the learned counsel for the respondents regarding disciplinary inquiry file, it was revealed that since it is an old matter, the file, inspite of search, could not be traced out. However, it is supplemented by saying when another opportunity is given, she can again order for searching the same. But in the present case, we find that the statement of H.C.Bhatia PW-7 was not at all considered by the inquiry officer against the present applicant. Charge against the present applicant has been that he got the names of two firms entered in the tender notice and this fact has not been denied by the applicant during the course of the proceedings. It is a fact that the applicant was subordinate to S.I. Attar Singh while discharging his duties but at the same time he has not pleaded the defence of obeying the orders of the superiors in discharge of the duties. Whether he has

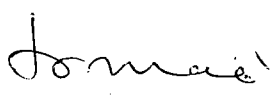
admitted indirectly of making these entries of two firms, referred to above, in summary of allegations and charge? In fact, non-supply of documents or statements of witnesses by itself do not vitiate the result of the inquiry or the inquiry itself unless the findings of the inquiry officer are primarily based on such evidence not made available to the delinquent during the course of the inquiry. This naturally violates in observance of principles of natural justice. In view of this, the contention of the learned counsel cannot be accepted to vitiate the inquiry proceedings.

4. No other point has been pressed by the learned counsel. We have also seen the quantum of punishment and we do find that it is commensurate with the extent of misconduct alleged against the applicant and a lenient view had already been taken.

5. We have also gone through the order passed by the appellate authority and the order is a well-discussed order in five full-scope paper touching the grounds individually para-wise taken by the applicant in the memo of appeal. The applicant ^{/has} also been heard before passing final order in the appeal.

6. In view of the above facts and circumstances, we find no merit in this case and the same is dismissed being devoid of merit. No costs.


(B.K.SINGH)
MEMBER(A)


(J.P.SHARMA)
MEMBER(J)

'KALRA'