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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

J.A. NO. 362/89

New Delhi this 11th day of February 1994

The Hon'ble Mr. J.P. Sharma, Member (J)

The Hon'ble Mr. B.K. Singh, Member (A)

Shri Om Parkash Tyagi,  
son of Late Shri Jagat Singh Tyagi,  
ESI No. 663, D (Old No. 421/10),  
Police Training School,  
Jharoda Kalan,  
New Delhi.

.. Applicant

(By Advocate : None)

Versus

1. Union of India,  
through its Secretary,  
Ministry of Home Affairs,  
North Block, New Delhi.

2. Commissioner of Police,  
Police Hqs. MSO Building,  
New Delhi.

3. Additional Commissioner of Police  
(Training), MSO Building,  
New Delhi.

4. Principal Police Training School,  
Jharoda Kalan,  
New Delhi.

.. Respondents

(Ms. Veena Kalra, Proxy counsel for Shri B.N.  
Gowbarnan)

O R D E R (JRAL)

Hon'ble Mr. J.P. Sharma, Member (J)

The petitioner besides other five officials  
Viz. HC Ravinder Singh, HC Umbir Singh, Const. Mohinder  
Singh, HC Paras Nath and HC Hari Kishan were jointly  
proceeded in a disciplinary enquiry ~~wherein~~ in a  
matter of 14.9.1987 wherein 20 live rounds of 303 rifle  
were stolen from the quarter guard of PTS, Jharoda  
Kalan, New Delhi. The applicant was placed under  
suspension by the order dated 15th September, 1987  
and a disciplinary enquiry was initiated .....

under Section 21 of the Delhi Police Act read with Delhi Police Punishment Rules 1980. A common departmental enquiry was held by the order dated 15.10.1987, and Inspector Roop Chand was appointed as Enquiry Officer but on his transfer Inspector Mange Ram was appointed to complete the enquiry. He submitted his enquiry report dated 6.7.1988 and held that charges against Shri Om Parkash i.e. the petitioner have been proved. The disciplinary authority that is the Principal, P.S. agreeing with the finding of the Enquiry Officer passed the order of punishment of forfeiture of one year approved service ~~award~~ to each of them by the order dated 22.8.1988. The applicant preferred an appeal and the Additional Commissioner of Police reduced the punishment to a minor penalty of 'Censure' by the order dated 9.1.1989 the period under suspension was also to be treated as spent on duty.

2. In the application the applicant has prayed for quashing of the punishment order of 9.1.1989 as well as to quash the charge sheet, enquiry proceedings, findings of the Enquiry Officer and order dated 22.8.1988 with a declaration that the applicant is entitled to all service benefits which have been withdrawn because of the aforesaid departmental enquiry.

3. A notice was issued to the respondents who contested the application and stated that the applicant was involved in a misconduct of <sup>not</sup> discharging his duties while functioning as SDO from 13.9.1987 9 AM to 14.9.1987 9 AM in as much as he did not present himself at the time of mounting/dismounting of the quarter guard giving both the incoming and outgoing quarter guard exercises

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prescribed in armed drill for the purpose and to brief guard personnel about the tactical and security duties to be performed by them. It is further stated that the applicant was duly considered by DPC held on 7.4.1988 / for the inclusion of his name in promotion list (E-1) which is drawn up for upper school course at PTS. The decision of the DPC has been kept in a sealed cover. After the departmental enquiry was over the sealed cover was opened and he was found unfit. He was further categorised as 'C' by the then Principal, PTS. In December, 1981 the next DPC also considered his case and he was again not found fit. His conduct was again censured in 1989.

4. The applicant has also filed the rejoinder and reiterated the stand taken by him in D.A. However, in the rejoinder the averment made by the respondents in the reply that he was also given adverse report subsequently and was also censured in 1989 has not been denied.


5. Alongwith the rejoinder the petitioner has also filed the guidelines for Enquiry Officer's disciplinary proceedings. He has also filed as Annexure RII the extract of Chapter 18 on guards and escorts wherein it is stated that the standing guard other than at the District Headquarters shall be under the supervision of the Officer-in-charge of the PS within whose jurisdiction they are located.

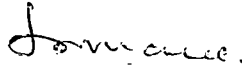
6. None is present on behalf of the applicant. Ms. Veena Kalra, appears as proxy counsel for Shri D.N. Göberdan who has filed his power on record. However, the departmental enquiry file is not available with the respondent's counsel and she wanted an adjournment on the ground that the departmental representative Head

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Constable Sateir Singh has no knowledge about the same and has not brought it. However, since this is an old matter we dispose of the case on merit. The departmental enquiry has been held according to the Delhi Police Punishment Appeal Rules 1980. The misconduct for which the applicant is alleged to have committed is that when mounting of the guard took place on 14.9.1987 at the PTS Guard Room in the campus, the applicant was not present and the switching over of the guard was done in a haphazard manner resulting in the theft of 20 rounds of 303 cartliger. The applicant in the application has taken the stand that he is not responsible at all and the Enquiry Officer has jumped to the finding without giving any reason whatsoever. In fact the applicant himself has filed copy of the statement of the Prosecution Witness examined during the course of enquiry. The findings of the Enquiry Officer is based on the statement of HC Juggu Rao No. 298 HC Om Bir Singh, HC Om parkash, Inspector, PTS HC Jag Phool Singh, Inspector Sukhbir Singh HC Ramashwar Dayal AsI Bhoori Singh, HC Ravinder Singh, HA Anoop Singh, ASI Om Parkash and was relied in framing the charges against the applicant whereby he has charged that he did not supervise the mounting and dismounting of the quarter guard on the morning of 14.9.1987 and that he absented himself from that important duty in not briefing the incoming guard about the tactical duties to be performed by them. The Tribunal cannot sit as an appellate authority because it is not a case of no evidence. The Enquiry Officer has given its own findings on the basis of reasons and also discussed <sup>the</sup> statement of defence witness examined in the joint enquiry. The findings given in the enquiry report is not perverse.

The disciplinary authority in its fully expressed order dealt with these findings and imposing the penalty of forfeiture of one year approved service agreeing with the findings of the Enquiry Officer holding the applicant guilty of lack of supervision and absenting himself from duty at the relevant time of mounting and dismounting of guard in the morning of 14.9.1987 and he did not brief the incoming guard which led to the pilferage of the ammunition. However, the police authority, Additional Commissioner of Police had taken a lenient view of reducing the punishment to 'censure'. The applicant has already been considered sympathetically in a case of a very grave nature where the theft has taken place at a place which was guarded by those persons who carry the responsibilities of preventing the Commission of such crime. The theft of ammunition from the custody of the police guard and supervision of a police force is a matter of extremely grave nature. We do not find any merit in case for interference though we did not get any help from the respondents. No Cost.

  
(B.K. Singh)  
Member (A)

  
(J.P. Sharma)  
Member (J)

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