

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 446/89

New Delhi this 16th Day of February 1994

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

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

Shri O.P. Kaushik,  
Sub Inspector,  
Special Task Force  
(Diplomatic Security),  
Chanakayapuri,  
New Delhi.

... Applicant

(By Advocate : None)

Versus

1. Union of India  
through Administrator/Lt. Governor,  
Delhi Administration,  
6- Raj Niwas Marg,  
Delhi-110 054.

2. The Commissioner of Police,  
Police Headquarters,  
M.S.O. Buildings,  
Indraprastha Estate,  
New Delhi-110 002.

3. Shri Qamar Ahmad  
Deputy Commissioner of Police,  
East Delhi (Shalimar Park),  
Delhi

4. Shri Rajendra Mohan,  
Additional A.C.P. (Range),  
M.S.O. Building  
Indraprastha Estate,  
New Delhi

... Respondents

(By Shri Lal Behari, SI, for respondents)

O R D E R (ORAL)

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

The applicant was working as Sub-Inspector, Special Task Force in Delhi Police, he was served with a summary of allegation and put under suspension after preliminary enquiry. A disciplinary enquiry

was ordered against him and it was alleged that the applicant let off the accused, Shri Kailash Gupta who was apprehended with one kg. CHARAS and he took illegal gratification from his relatives and also did not inform the Sr. Officers regarding the said Shri Kailash Gupta. The Enquiry Officer exonerated him on two charges and held him guilty of one charge. The disciplinary authority, however, disagreed <sup>with</sup> that the findings of the Enquiry Officer and held applicant guilty of the charges awarding the punishment of Forfeiture of five years of approved service permanently with cumulative effect and also passing an order that the period of suspension shall be treated as period as not spent on duty. An appeal against the same was dismissed by the Additional Commissioner of Police by the order dt. 5.12.1988 and copy was delivered to the applicant on 16.12.1988. On 9.2.1989 the present application has been filed in which the applicant had prayed that the orders of punishment be quashed.

A notice was issued to the respondents who contested the application and opposed the grant of the relief. He stated that Shri Kailash Gupta was apprehended by Constable Swaran Singh and Brahamjit Singh having one Kg of CHARAS. He was let off without bringing to the notice of ACP/SHO, Vasant Vihar. It is also alleged that he has taken Rs.900/- and another amount of Rs.100/- given to him by the mother and wife of Shri Kailash Gupta for releasing him.

ACP Purshotam Dass and after him ACP Jagdish Singh conducted the enquiry and submitted the findings dated 10.7.1987. A show cause notice was issued to the applicant dated 20.7.1987 proposing forfeiture of 5 years of approved service permanent and to treat his suspension period as not spent on duty. The applicant submitted the reply on 3.8.1987. Thereafter the impugned order was passed which was upheld by the Appellate Authority.

None is present on behalf of the applicant nor any lawyer is present on behalf of the respondent. Since this is an old matter, we propose to dispose of the application on the basis of the pleadings on record.


The groundstaken by the applicant are that the Officer-in-Charge of the Police Station failed in his duty but that is not the issue here. That was the thing to be seen at the time of the trial of the accused person. He also alleged certain things against the SHO that the FIR was registered the next day but that was nothing to do with the merit of the enquiry. The next point taken in the ground is that the delay in initiation of the departmental enquiry but there is no delay whatsoever as the matter in such cases do take sometime. The respondents have explained the facts in the manner that on 24.1.1986 Inspector Shriram Meena went to the room of the applicant where Shri Kailash Gupta was not present. On this ACP Vasant Vihar directed the applicant to produce Shri Kailash Gupta but he did not do so. Inspector Shriram Meena also raided the house but he could not be found.

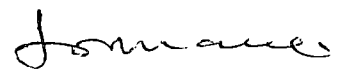
This led to the delay in initiation of the departmental proceedings against the applicant. The next ground is where the CHARAS has gone which was recovered? This is also not an issue here.

The applicant has also taken the ground that he was busy in some other investigation with Murder case. However, the witnesses for the administration have clearly stated that Shri Kailash Gupta was apprehended in persence of Constable Swaran Singh and Brahamjit Singh and the applicant was directed to take legal action against Shri Kailash Gupta but instead of doing so, he was let off.

The other ground relates to the <sup>appreciation</sup> apprehension of the evidence done by the Enquiry Officer but this court cannot scrutinise and re-appreciate the testimony of the witnesses examined. We have also gone through the copies of the statements filed on record. The conclusion drawn by the Enquiry Officer cannot be said to be in any way perverse or that it is not based on evidence. The applicant has been in service since 1972 and is expected to be well aware of the rules and the manner in which a suspect is to be dealt with. He cannot shift the responsibility as a responsible Police Officer by making lame excuses though there is a statement of Baldev Raj which go to show that Nathan Lal, Sub-Inspector has handed over Shri Kailash Gupta to them with a warning to be careful in future. However, the Enquiry Officer had dealt with the statement.

We find no merit in this application and the same is dismissed leaving the parties to bear their own costs.

  
(B.K. Singh)  
Member (A)

  
(J.P. Sharma)  
Member (J)

\*Mittal\*