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Central Administrative Tribunal
Principal Bench: New Delhi

OA No:670/89

New Delhi this the 1st Day of March, 1994.

Shri N.V. Krishnan, Vice-Chairman (A)
Shri B.S. Hegde, Member (J)

Rajbir Singh,
S/o Shri Wazir Singh,
r/o BB-70B, (Poorvi),
Shalimar Bagh, New Delhi.Applicant

(By Advocate: None appeared)

Versus

1. Sh. Ajay Aggarwal, IPS,
Additional Commissioner of Police,
New Delhi Range, New Delhi.
 2. Shri V. Rajagopal, IPS,
Dy. Commissioner of Police,
New Delhi District, New Delhi.Respondents
- (Sub Inspector Shri Makhan Singh, departmental representative.)

ORDER(Oral)

(Mr. N.V. Krishnan)

This matter is listed at serial No.6 in today's cause list under regular matters with a note to the Counsel that the first 10 cases are posted peremptorily for final hearing. In the circumstances, we have perused the record and we proceed to pass final orders.

2. The applicant, a Sub Inspector of Police is aggrieved by the penalty imposed on him in disciplinary proceedings vide order dated 9.4.88 of the Deputy Commissioner of Police, i.e., the second respondent and the dismissal of his appeal by the order dated 11.8.88 of the first respondent, the Additional Commissioner of Police. It is seen that the following summary of allegations was made against the applicant:-

"It is alleged against S.I. Rajbir Singh, No.D-11, that on the night between 13/14.3.1986 having posting at P.S. Mandir Marg, New Delhi while on Medical Rest

and not on duty forcibly brought one Sh. Ashok Kumar Mishra and his wife Smt. Raj Kumari upto the boundary wall of Police Station Mandir Marg after giving both a good beating on way from Banglasahib Road to P.S. Mandir Marg for no fault of their and also misbehaved with Smt. Raj Kumari W/o. Sh. Ashok Mishra. He also absented himself from the police station.

The above mentioned acts of S.I. Rajbir Singh No.D-11 amount to gross misconduct and dereliction in the discharge of his duties rendering him unbecoming of a Govt. Servant in violation of Rule 3(i)(ii) of C.C.S. Conduct rule 1964 and which make him liable for departmental action u/s 21 Delhi Police Act, 1978."

3. An enquiry was held by the Additional Commissioner of Police (Headquarters). A copy of the enquiry report and his finding is at page 21 of the paperbook. Six witnesses were examined from the department and three witnesses were examined by the applicant in his defence. The enquiry officer has given a fair summary of the evidence of the witnesses and after considering the submissions made by the witnesses he has concluded that, despite some contradictions in the statement of the PWs, it has been fully proved that SI Rajbir Singh, the applicant, while on medical rest and not on duty, forcibly brought one Shri Ashok Kumar Mishra and his wife Smt. Raj Kumari upto the boundary wall of Police Station, Mandir Marg after beating them for no fault of their and also misbehaved with Smt. Raj Kumari. It was also held that it was also proved that he was absent from Police Station.

4. Agreeing with the finding of the Enquiry Officer, the impugned order of penalty dated 9.4.88 was passed by the second respondent awarding

the punishment of forfeiture of his 5 years approved service permanently entailing corresponding reduction in his pay from Rs.1820/- per month to Rs.1640/- per month.

5. An appeal was filed and the order of the disciplinary authority was confirmed after considering the points made in the appeal.

6. The applicant has challenged this order on various grounds.

7. The respondents have filed a reply contending that there is no substance in this application and that it should be rejected.

8. We notice that the following important grounds have been raised in the OA:--

i) It is stated that the applicant was on medical rest. The summary of allegations states so and it is not a new fact.

U This, however, does not imply that the allegation is false. For, the applicant himself has stated in the OA that he was resting in the Police Station from the commencement of his illness on 10.3.86 till 13.3.86 when he allegedly proceeded to his house to take rest. The contention that he was away at his house at the time of the incident has not been upheld by the Enquiry Officer.

ii) The other important point made by him is that one of the complainants Smt. Raj Kumari herself has not made any allegation against him in her evidence. This has been discussed by the Enquiry Officer

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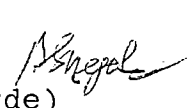
in his report and he finds that the evidence of her husband Shri Ashok Kumar Mishra as well as of the Constable Ravinder Singh and Jagdish Prasad proved that the applicant had a quarrel with Sh. Ashok Kumar Mishra and they were brought to the Police Station at P.S. Mandir Marg.

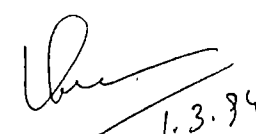
9. In the circumstances, we are of the view that this is not a case without any evidence.

10. Another point made by him is that no motive has been alleged. The evidence of PWI Sh. Ashok Kumar Mishra contains statement which indicates that perhaps the applicant did not have any clean motive when he brought the complainants on the night of 13.3.86.

10. It is then stated that if the allegation is true a criminal case could have been registered against him. This is hardly a defence because it is quite possible that the authorities felt that it would be safer to proceed against the applicant in departmental proceedings rather than in criminal proceedings.

11. We, therefore, find that the applicant has not made out any case against the impugned orders. Accordingly the OA is dismissed. No costs.


(B.S. Hegde)
Member(J)


(N.V. Krishnan)
Vice-Chairman

Sanju.