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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI..

OA No.929/89

Date of decision: 4th Aug. 92

Sh.Niranjn Singh ... Applicant

versus

The Commissioner of Police,
Delhi & others. ... Respondents

CORAM: THE HON'BLE MR.T.S.OBEROI, MEMBER(J)
THE HON'BLE MR.P.C.JAIN, MEMBER(A)

For the Applicant ... Sh.B.S.Charya, Counsel.

For the Respondents ... Sh.Jagdish Vats, Counsel.

1. Whether local papers may be allowed to see the Judgement? *yes*.
2. To be referred to the reporter or not? *yes*.

JUDGEMENT

(DELIVERED BY HON'BLE MR.T.S.OBEROI, MEMBER)

The allegations against the applicant in this OA are that, on 1.1.87, while posted in Gandhi Circle, of Traffic Unit, he, alongwith Constable Vijay Pal Singh No.937/T, was found checking vehicles at Azad Nagar Chowk, unauthorisedly and allegedly extorting money, under the influence of liquor. On receipt of information about it, he and Constable Vijay Pal Singh were checked by ACP/T, East District with some other staff members. He was found under the influence of alcohol, and was unable to control his movements. The zipper of his trousers was also found open. He was got medically examined by S.H.O, Gandhi Nagar, vide D.D.No.18-A dated 1.1.87, and the Doctor opined him under the influence of alcohol.

In the departmental enquiry held, the enquiry officer found him guilty, and after issue of a show-cause-

notice, the disciplinary authority ordered the applicant to be removed from service with immediate effect besides treating the period from 1.1.87 to the date of the order as period not spent on duty, not entitling him to pay and allowances for that period, except what has been paid to him, as subsistence allowance. Appeal filed by the applicant was also rejected, and hence, this OA.

2. Several grounds were taken up by the applicant, in support of his case. It was stated that the summary of allegations was vague and concocted; that the enquiry officer failed to provide the requisite documents; that he did not accede to the request of the applicant to be represented by legally trained person and/or a retired Government servant or other official; that the inquiry had not been conducted in a valid, proper and lawful manner and that principles of natural justice had been violated; that when the first enquiry officer was changed, the other enquiry officer ought to have held de-novo inquiry; that the enquiry officer proceeded with a biased and prejudiced mind; that both the orders passed by the disciplinary authority and the appellate authority suffer from non-application of mind; that the disciplinary authority acted beyond the scope of punishment proposed in the show cause notice dated 27.4.1988; that no independent witness against the applicant was examined; and that the

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punishment of dismissal is extremely harsh, excessive, disproportionate and violative of Article 14 of the Constitution. In addition, the applicant has challenged the validity of sub-clauses (iii), (iv) and (v) of Rule 16 of the Delhi Police (Punishment & Appeal) Rules, 1980. It was also submitted that a copy of the enquiry officer's report was not made available to the applicant before the disciplinary authority passed the order of dismissal.

3. In the counter filed on behalf of the respondents, the applicant's case was vehemently opposed. Rejoinder was also filed by the applicant, reiterating the points put forth, supporting his case.

4. We have heard the learned counsel for the parties and have perused the copies of the proceedings placed on record.

5. It may be mentioned here that there was a separate OA filed by Constable Vijay Pal Singh (OA No. 927/1989) which has been disposed of vide judgement dated 13.2.92. In the present case, the grounds on which the applicant's case is based, are broadly the same, as in the case of Vijay Pal Singh. Even the enquiry proceedings were held jointly. The facts and circumstances including the charges etc. are also the same against the present applicant as were against said Vijay Pal Singh. We are, therefore, of the view that, in all fairness,

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the case of the applicant herein deserves to be treated alike and similar orders passed/ ^{as done in the case of Vijay Pal Singh} On this short ground alone, the impugned order dated 19.5.88 passed by the disciplinary authority and order dated 7.3.89 passed by the appellate authority, are quashed and set aside. The applicant is entitled to be taken back in service as expeditiously as possible and preferably within a period of two months from the date of receipt of a copy of this judgement. As ordered in the case of Vijay Pal Singh, the respondents shall be free to revive the inquiry proceedings from the stage of supplying a copy of the enquiry officer's report to the applicant and the applicant should then submit his representation, if any, against the findings of the enquiry officer within one month of the receipt of the enquiry officer's report. The competent authority may then pass the order in accordance with law/rules within a period of two months from the date of receipt of the representation, if any, made by the applicant. The pay and allowances for the period from the date of suspension, i.e., 1.1.1987 upto 7.3.1989 when the appeal of the applicant was dismissed, shall be governed by the orders which may finally be passed in the revived enquiry. However, from 8.3.89 till the date of reinstatement, as directed above, the applicant shall be entitled to monetary benefits of pay and allowances, as admissible under the rules and these should be paid to the applicant within a period of four

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months from the date of receipt of a copy of this judgement. There will be no order as to costs.

(1) 4/8/92
(P.C.JAIN)
MEMBER(A)

4.8.92
(T.S.OBEROI)
MEMBER(J)