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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A.NO. 946/89

New Delhi this 9th March 1994

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

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

Shri Kirpal Singh,
Son of Shri Sultan Singh,
Resident of Village Nangla Firoze Mohanpur,
Farukh Nagar, District Ghaziabad,
U.P. ... Applicant

(By Advocate : Shri A.S. Grewal)

Versus

1. Lt. Governor of Delhi
through its 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,
CID, Delhi
Delhi Police Headquarters, MSO Building,
IP Estate, New Delhi.
4. Deputy Commissioner of Police
(Crime & Railway),
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi. ... Respondents

(By Deputt. Representative
Shri Laxmi Narain)

ORDER

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

The applicant was posted as a Police Constable since 1966. A summary of allegation was served upon him that on 22.1.1988 while he was in Gagan Cinema he accosted one Gurdev Singh and took him away from Cinema Hall on 2-wheeler scooter and attempted to commit sodomy with him in the darkness. It was unbecoming of a police officer and a disciplinary enquiry was initiated under Sec. 21 of Delhi Police Act, 1978. The applicant

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filed a reply and Inspector Shankar Singh of Crime Branch was appointed Enquiry Officer. During the course of the enquiry the statement of Gurdev Singh was also recorded and gave the findings against the applicant after framing the charge. The applicant also examined certain defence witnesses before the Enquiry Officer. The Enquiry Officer's report was considered by the disciplinary authority and a show cause notice was given to him as to why he should not be dismissed from service. The applicant submitted his reply and thereafter he was dismissed from the service by the order dated 22.9.1988. His appeal was dismissed on 22.12.1988. ~~His appeal was dismissed~~ Aggrieved by the above order of punishment the applicant filed this application in May 1989 and prayed for quashing of the order of punishment with all consequential benefits.

2. A notice was issued to the respondents who contested the application and also stated that besides the incident of 21.1.1988, the applicant again went to the Gagan Cinema Hall on 26.1.1988 in a drunken state with the intention to pick up another prey. He was identified by the Cinema staff. He was handed over to the police and was also got medical examined and the doctor found him under the influence of alcohol. The applicant was identified by the boy with whom he had attempted to commit sodomy on 22.1.1988. The applicant was given due opportunity. The contention of the applicant that he was not given the opportunity to cross examine before framing the charges is denied. The statement of PWs were recorded in the presence and he

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signed the same. The applicant had no case.

3. We have heard the learned counsel for the applicant and no lawyer appeared for the respondents. Sub-inspector, Laxmi Narain Parokor was present. The first contention of the learned counsel is that Gurdev Singh was not allowed to be examined. However, from the perusal of the statement of Gurdev Singh it appears that the applicant has signed the statement just by the side of Gurdev Singh & it cannot be said that he was not given the opportunity to cross examine him. He made an excuse that he did not know of the PWs are also to be cross examined. The Enquiry Officer, therefore, initially did not accept his request but on reconsideration by the order of the Additional Commissioner of Police (CID), PW, Gurdev Singh was resummoned and the applicant had the opportunity to cross examine the said witness. Thus, the applicant cannot be said to have any grievance on that account. The contention of the learned counsel therefore has no force.


4. The applicant's counsel contended that the applicant was not got identified by Gurdev Singh. The witness Gurdev Singh in his statement has identified the applicant. Thus this contention also has no basis.

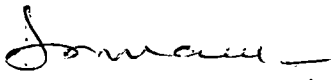
5. The learned counsel contended that there is a breach of Rule 8(a) and 10 of Delhi Police Punishment and Appeal Rules, 1980 where it is provided that the punishment of dismissal shall be awarded for the act of gravest nature. This contention also has no basis because a person in Police uniform if indulges in unnatural sexual offence then the misconduct is of highest order

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and such a person does not deserve to be a member of the police force. The punishment, therefore, awarded is not harsh.

6. The learned counsel has also argued that the defence witness examined by the applicant are more reliable than the Prosecution Witnesses. However, in a case of the present nature the statement of the victim can be relied upon without any further collaboration. Nobody will malign himself to that extent causing false aspersion against a person of a police force. The court cannot also re-appreciate the evidence. The findings of the Enquiry Officer cannot be faulted with. The disciplinary authority and the Appellate authority have also considered the points raised by the applicant in the show cause notice and in the appeal respectively and held the applicant guilty of the charge framed against him. The order of the punishment does not call for any interference. The application, therefore, is dismissed as devoid of merit.


(B.K. Singh)
Member (A)


(J.P. Sharma)
Member (J)

Mittal