

ke

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. No. 1676 of 1988

This 11th day of February, 1994

Hon'ble Mr. J.P. Sharma, Member (J)  
Hon'ble Mr. B.K. Singh, Member (A)

Hari Singh Dhankar  
S/o Shri C.S. Dhankar,  
House No.48, Sector 4-R,  
Ballabhgarh (Faridabad).

..... Applicant

By Advocate: Shri G.D. Gupta

VERSUS

1. The Delhi Administration, through  
The Chief Chief Secretary,  
5, Sham Nath Marg,  
Delhi.
2. The Commissioner of Police,  
Police Headquarters,  
New Delhi.
3. The Addl. Commissioner of Police (Range),  
Police Headquarters, MSO Building,  
I.P. Estate, New Delhi.
4. The Addl. Deputy Commissioner of Police,  
Central District,  
Delhi.

.....Respondents

By Advocate: Shri Vinay Sabharwal

O R D E R

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

This application No.1676/88 has been directed against the impugned order No.4689-4749/HAP/C dated 29.8.84 dismissing the applicant from service as a result of departmental enquiry held against him. The facts uncontroverted are that while Shri Hari Singh Dhankar, the applicant, was posted at Police Station Patel Nagar in June-July 1980, an investigation of Case No..594 dated 26.6.80 under Section 309, IPC, was entrusted to him. During the course of investigation he called Dr. J.M. Gulati, resident of Cottage No.29, West

Contd....2/-

R

Patel Nagar and questioned him about the emergency drug kit containing medicines and other injectible materials and expressed doubts about some expired medicines having been administered to one Sardari Lal who attempted suicide. A search was conducted by the applicant and a search memo was prepared and signed by Dr. J.M. Gulati his brother and Shri Subhash Nayyar (neighbour) whom he had called. It is alleged that Shri Maman Singh, SHO, Patel Nagar P.S. had advised the applicant not to conduct search in the clinic of Dr. Gulati since it would tarnish the latter's image.

2. It is alleged that the applicant harrassed and pressurised Dr. Gulati to pay him a sum of Rs.5000/- which was subsequently reduced to Rs.4000/-. It is further alleged that illegal gratification for hush<sup>h</sup>ing up the case and for submission of a final report was demanded and paid in two instalments. A sum of Rs.2000/- was paid on 27.6.80 and another sum of Rs.2000/- on 28.6.80. It is further alleged that once it came to the notice of the SHO, Patel Nagar PS and after the ACP summoned and rebuked the SI Hari Singh Dhankar, the applicant, he returned the amount to the Dr. Gulati.

3. It is also admitted that there was some land dispute between one Gyan Chand Kapur and Kishan Lal of Ranjit Nagar and Gyan Chand Kapur lodged an FIR which was not registered by the applicant and for registering the same he demanded a sum of Rs.1000/- from him and ultimately the deal was settled for Rs.200/. Gyan Chand Kapur reported the matter to the Anti Corruption Department of the Delhi Police who laid a trap and organised a raid with tainted money of Rs.200/-. This raid was unsuccessful.

4. The applicant was dealt with departmentally after obtaining approval of the Additional Commissioner of Police (R), Delhi, under Rule 15(2) of Delhi Police (Punishment & Appeal) Rules, 1980. Summary of allegations along with list of witnesses and documents to be relied upon was also furnished to him. This is annexure 'A' annexed with the application. The Departmental Enquiry was entrusted to the then ACP, Daryaganaj PS, Shri Kapur and on his transfer to his successor, Shri Ajmer Singh Chauhan. Shri Chauhan submitted his findings after observing the formalities as envisaged in the Delhi Police (Appointment & Recruitment) Rules, 1980, Delhi Police (Punishment & Appeal)

Rules, 1980 and also Delhi Police (General Conditions of Service) Rules 1980. He concluded ~~that~~ the charges framed and served upon the delinquent stood proved.

5. Tentatively agreeing with the findings of Shri Chauhan, Asstt. CP of Police, the then ACP (C) issued a show-cause notice to the applicant <sup>vide</sup> No.2674(HAP)/C dated 14.5.84 provisionally proposing therein an award of punishment of dismissal from service. This is annexure 'F' of the paper-book.

6. The applicant submitted his reply to the show-cause notice denying the imputations and pointing out to various contradictions, infirmities in the evidence of PWs, non-supply of list of witnesses, copies of preliminary enquiry report and other relevant documents resulting in denial of adequate opportunity and non-observance of principles of natural justice.

2

Contd....4/-

After considering his reply and hearing him in person in the orderly room, ~~where~~ he charged the SHO, Maman Singh, of bias and prejudice because the latter had maintained illicit relationship with a <sup>indesirable</sup> woman and since he had pointed these things to him and also that the <sup>SHO</sup> did not want a search to be conducted which he conducted in spite of his advice to the contrary. The DCP wanted to know why the applicant did not raise the question of illicit relationship of the SHO when he had the opportunity to cross-examine him. At this the applicant kept mum. The DCP (Central) confirmed the show cause notice and passed the dismissal order dated 29.8.84, as mentioned above.

7. Aggrieved by this order the applicant filed an appeal followed by a revision petition to the competent authorities which were all rejected.

8. The applicant has sought the following reliefs:

- (a) to allow the application with costs.
- (b) to issue appropriate orders, direction or directions for:
  - i. quashing the impugned orders of dismissal dated 29.8.84, order dated 22.1.85 dismissing the appeal and the order dated 13.11.85 dismissing the revision petition of the applicant;
  - ii. declaring the applicant entitled to reinstatement in service with all consequential benefits;
  - iii. directing the respondents to reinstate the applicant into service with all consequential benefits like arrears of pay, allowances, seniority etc.
- (c) to issue such other appropriate order or directions as deemed fit and proper by this Court.

Contd....5/-

8. A notice was issued to the respondents who filed their reply and contested the application and opposed the grant of reliefs prayed for.

9. We heard the learned counsels, Shri G.D. Gupta for the applicant and Shri Vinay Sabharwal for the respondents at great length and perused the records of the case and the DE files part I, II and III and also the Confidential Rolls and service record <sup>of the applicant</sup> furnished before us along with other relevant documents by the respondents.

10. The learned counsel for the applicant raised the following contentions during the course of arguments. Firstly, that the departmental enquiry was initiated without obtaining the orders of the Lt. Governor as per instructions passed by the Hon'ble High Court in case of Raghbir Singh Vs. Delhi Administration, 1981 (1) SLR page 826 under PPR 16.40. The second contention raised was that copies of documents, i.e. complaint made to the ACP, Shri Ram Murti Sharma by SHO, Maman Singh and copy of complaint of Gyan Chand Kapur made to Shri N.K. Shingai, ACP(R), Anti Corruption, etc. ~~were~~ <sup>were not supplied to him.</sup> These were vital documents for defence and for want of these the applicant was disadvantaged in his defence. He further said that sanction/permission under PPR 16.38 (1) and PPR 16.40 was necessary and these were not complied with. He further pointed out that the search did not yield any incriminating material and as such the demand of illegal gratification and its payment and subsequently its refund to Dr. Gulati are all 'cock and bull stories' which cannot be accepted. He also referred to the evidence of the ACP saying that the ACP

Contd:....6/-

during his cross-examination had never admitted that he had summoned the applicant. It was further argued that the PW2 Shri I.J. Gulati (brother of Dr. J.M. Gulati) also admitted in cross-examination that no harrassment was cuased and similar was the statement of Dr. J.M. Gulati during the cross-examination. It is further argued that even assuming that these were interested witnesses, but even Shri Subhash Nayyar whom Dr. Gulati had summoned, denied about having been present during the money deal. It is further argued that the PW4, SHO Maman Singh, during cross-examination had also admitted that he had asked Dr. Gulati to give a complaint in writing but the same was not given. He also denied knowledge of return of the money and further stated that there was no complaint against the applicant in the past. He further argued that PW5, ACP, Shri Ram Murti Sharma did not mention about his having called the applicant and rebuked him for accepting illegal gratification and his having refunded the same. The PW6, Shri Gyan Chand Kapor was cross-examined and he also admitted of having filed a complaint to Anti-Corruption Branch of Delhi Police and also admitted that a trap was laid but was unsucessful. The learned counsel for the applicant further argued that the PW7, Inspector, Kewal Krishna of Anti-Corruption Branch had not been cited as a witness in the enclosure of the memo of charges furnished to the applicant but he (PW7) was examined. He proved that a raid was organised and a trap was laid but no one turned up and as such the raid was not successful. It is further argued that there were other witnesses who should have been examined but were not examined, namely, DCP/ACP and H.S. Bhatia,

Contd.....7/-

(Vig.) and the wife of Dr. J.M. Gulati who is reported to have paid Rs.500/- to supplement the inadequacy in the demand of money. It was further said that Dr. Gulati and Shri Gyan Chand Kapur never made a complaint in writing on the basis of which an enquiry could be made.

The DW1, Rajinder Kumar Bakshi in charge of PS Kotla, testified that he and his Taftishi, Constable Brahmjit Singh were present on 27.6.80 at 9.30 a.m. in the reporting room when SHO Maman Singh came out of his office and ordered the applicant not to make any search of the clinic of Dr. Gulati. He testified that the SHO also threatened the applicant that if the latter conducted a search he will get him transferred to DAP and also get an DE launched against him. He also stated that the applicant retorted saying that if the patient, Sardari Lal, admitted in Ram Manohar Lal Hospital, died, his guardians would not spare him and that therefore he performed his duty and conducted the search.

11. The learned counsel for the applicant also quoted the relevant portions of a judgment in the case of Amrit Lal Vs. State of Punjab, 1973, Current Law Journal (page 269). The learned counsel also mentioned that it was a case of 'no-evidence' and that the villain of the piece was Maman Singh, SHO who had poisoned the ears of the superior authorities and not only he got the applicant transferred to DAP but also ensured his dismissal from the force. He further stated that the DE conducted by Delhi Police was improper and normally it is the DCP of the DAP who was competent authority to order enquiry and entrust it to some officer working under him and he should have passed the necessary orders. Since this was not done, the whole proceedings got vitiated. He also pointed out that the procedure of departmental enquiry

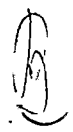
Contd.....8/-

as laid down in Rule 16 Sub-Rule 6 and <sup>Rule</sup> Rule 10 of Delhi Police (Punishment & Appeal) Rules 1980 were not properly observed, vitiating the award of punishment.

12. The learned counsel for the respondents was not present when Shri G.D. Gupta, learned counsel for the applicants was arguing on behalf of the applicant for a couple of days. He appeared only when Shri Gupta was about to conclude his arguments. Since Shri Sabharwal did not know what were the grounds taken by Shri Gupta in assailing the orders of dismissal, he could not rebut the arguments and simply passed on the departmental files to us for our perusal.

13. We have very carefully gone through the relevant files to test the arguments advanced by Shri Gupta and the various Acts passed by Parliament in case of Delhi Police.

14. Under Article-239 of the Constitution as it stood prior to its amendment in 1956, the Chief Commissioner under President of India, was head of Delhi Union Territory. The employees then were not under the service of the Central Government. After the amendment of 1956, the office of Chief Commissioner disappeared and that of Administrator came into being who was to function under the President. Under Article 239(1).





the President was empowered to change the designation as he may specify. The Administrator derived only powers and perform such functions and duties as were entrusted to him under Article 239(1). Under Government of India (Allocation of Business) Rules, 1961, the Administrator was notified as Lieutenant Governor and he became bereft of many of his powers and functions. Under Article 239(1), the Lieutenant Governor was asked to exercise only those powers which the Central Government allocated to ~~it~~ As Administrator, he used to sanction departmental proceedings, but after the administration of Union Territory of Delhi got vested in the Home Ministry and separate set up of Police Commissioner was created by the Home Ministry with <sup>Add'l P.</sup> Deputy Commissioners and Additional Deputy Commissioners <sup>ACPS</sup> etc. The Police Commissioner became the head of this set up and all the Deputy Commissioners and Additional <sup>ACPS</sup> Police Commissioners/Assistant Commissioners of Police were required to function under him. It is an integrated set up. For subordinate ranks, he is the appellate Authority now <sup>Suchas</sup> including <sup>B</sup> Inspectors. The Lieutenant Governor is neither competent authority for the subordinate ranks nor is he required to grant <sup>under</sup> sanction PPR 16.40. The constitution of Police force lays down that there will be only one integrated police force with DAP and other disciplines, such as Anti-Corruption and

and general set up divided in districts for investigation of cases and maintenance of law and order and Traffic Police. The DAP is a supplemental force to help the Police Commissioner in the maintenance of law and order. The Police Commissioner is now vested with all the powers in regard to superintendence and control of the entire organisation of the Force. He derives his powers from various Acts enacted by the Parliament and it is the Home Ministry which <sup>in</sup> is over-all charge of the Delhi Capital Territory. In view of this, the contention of the learned counsel for the applicant that the enquiry got vitiated because the DCP(Central) was not competent authority to order enquiry and that it should have been ordered by the DCP of DAP, is not acceptable because the entire force is integrated and under the control of the Police Commissioner. It was further pointed that under PPR 16.38 and 16.40 the sanction of the Lieutenant Governor was not taken. In case of SI, sanction of only Additional CP (Range) is needed and the order of Additional CP under 16.38 is as follows:.

"Whereas on an enquiry under PPR 16.38(i)(a) conducted by Shri H. C. Bhatia, ACP/Vigilance on complaint/information received from the Dy. Commissioner of Police, Central District, Delhi, some of the allegations have been substantiated against ST, Hari Singh No.D/1523.

.....

Now therefore I Surjit Singh, Addl. Commissioner of Police(Range) Delhi in exercise of authority vested in me under PPR 16.38(II) hereby order that the said Police official be dealt with departmentally by an officer not below the rank of ACP to be nominated by the Deputy Commissioner of Police, Central District, Delhi."

Further the inquiry started before the applicant was shifted to DAP.

Summary of allegations and list of witnesses and memo of evidence to be tendered by each have been given.

B

15. This file also makes an interesting reading in the sense that at page 9 the following paragraph has been quoted:

"It is worth-mentioning that during the DE it has come to notice that Shri Kishan Lal Chopra accused in the case FIR No.149/80 dated 18.2.80 u/s 452/506/34 IPC PS Patel Nagar, which was reagistered on the complaint of Shri Gian Chand was holding passport No.325524 dated 11.8.78. This case was put in court on 8.4.80. It was the duty of SI Hari Singh Dhankar to have sent necessary intimation regarding involvement of Sh. Chopra in the above mentioned case. This was not done. The complainant in the said case has alleged that the accused was made to leave for abroad by the SI. This aspect may be separately inquired into by DCP/Central Distt./DCP/SB for appropriate action."

This means that there was a further serious charge against the applicant and this matter was left to the DCP/Central Distt. to ~~order~~ <sup>another enquiry</sup> into the case separately.

16. The report of Shri Gyan Chand and the ~~report~~ <sup>report of S.H.O. Shri Maman Singh, are all</sup> confidential documents which the ACP Shri Ram Murti Sharma forwarded to the DCP, Anti Corruption Branch. The ACP, Shri Ram Murti Sharma in his written statement dated 14.7.80 made to DCP(C) has stated that the SI Hari Singh Dhankar is a habitual bribe taker and that he was repeatedly warned by the ACP personally in the presence of the SHO. He was given a number of opportunities but he did not improve. Thus it is a fact that the ACP, Shri Sharma was fully satisfied that the applicant was addicted to extortion of money in the discharge of his official duties. They have also carefully gone through the statements of the Gulati brothers, Dr. J.M. Gulati and S. Dr. I.J. Gulati, who have stuck to their guns and reiterated that the money was demanded and paid. The doctor and his brother have no-where resiled from their stand.

Contd.....12/-

17. Shri Gian Chand Kapur, another PW had testified to the fact of the demand of bribe of Rs.1000/- by the applicant and that the deal was finally settled ~~for~~ <sup>for</sup> Rs.200/- for registering an FIR against Kishan Lal with whom the former had a dispute. It is also a fact that Gyan Chand was instrumental in organising a raid and laying a trap but it seems that the matter was leaked out and the applicant did not turn up to collect the tainted money. Even during the cross examination the PW Gyan Chand reiterated his stand. The fact that Dr. J.M. Gulati did not file a written complaint is ~~admitted~~ <sup>evidence of</sup> by both parties. The I.O. while analysing ~~the PWS~~ <sup>the PWS</sup> said that after the search Dr. Gulati did not want to take a further risk of filing a written complaint to the SHO, Maman Singh or the ACP because of the fear of being involved in further case of the type to which he had been subjected, ~~as in~~ in the case of Sardari Lal. The file containing the examination and cross-examinations nowhere shows that ~~PWS~~ including Shri Rama Murti Sharma ~~have~~ made any deviation from ~~their stand~~. All the PWs have testified to the corrupt style of functioning of the applicant. It was only the DW, Shri Rajinder Kumar Bakshi, in Charge of PS Kotla who has testified to the fact that ~~the applicant~~ <sup>he</sup> was ~~present~~ in the reporting room when Maman Singh, SHO had directed the applicant not to conduct a search and had also threatened him with transfer to DAP and also <sup>with</sup> a DE if he did not resist. Except for this lone witness there is none else who has testified anything in favour of the applicant



Contd.....13/-

18. The examination of ACP(Vig.), Shri Bhatia and wife of Dr. J.M. Gulati, who is reported to have paid Rs.500/- to the applicant to make up the second instalment of Rs.2000/-, is not very relevant to the issue. It is admitted that a trap was laid and a raid was organised but because of non-turning up of the applicant or anyone on his behalf to collect the money, the raid and trap ended in a fiasco.

19. The examination of Jagdish Chand who signed on the seizure memo prepared in the clinic of Dr. Gulati revealed that he was not present in the clinic and he signed it in the PS Patel Nagar as per directions of the applicant. He also categorically stated that he never accompanied the applicant to the clinic of Dr. Gulati for search. The HC Ram Kumar, PS Patel Nagar also denied having gone to the house of Gyan Chand who informed him that SI Hari Singh Dhankar was not coming. He also expressed complete ignorance about any raid having been conducted against the applicant by the Anti Corruption Branch. Shri Subhash Nayyar has only stated in examination-in-chief and also in cross-examination that he signed the search memo but he was not present and did not know anything regarding the payment of money and its subsequent refund.

20. A careful study of the departmental files reveals that there are no contradictions or infirmities in the evidence given by the various PWs as to vitiate the proceedings or the conclusion drawn therefrom. By a reading of Misc. File No. D/1523, it is clear that the applicant did not turn up on several dates as a result of which the DE got delayed and several reminders were

Contd.....14/-

D

23

sent to the I.O. by the Additional Commissioner of Police to expedite the same. As a result of the reminders from the <sup>Addl CP</sup> ~~ACP~~, Shri Ajmer Singh Chauhan, ACP, wrote to ACP, Control Room to direct SI, Hari Singh Dhankar to appear before him on 17.1.83 at 11.00 a.m. in connection with the DE against him. This was followed by several reminders which are available at pages 381, 379, 377, 375 and the final letter was issued by Shri Ajmer Singh Chauhan, ACP dated 12.8.83 to the Assistant Commissioner of Police, Control Room, stating that if the SI, Hari Singh Dhankar, did not turn up on 18.8.83, he will be forced to take orders for ex-parte proceedings. This is at page 373 of the aforesaid departmental file. Repeated reminders of the competent authorities were being received and the same were being passed on to the Police Control Room and the applicant was not turning up. The reminders and various letters sent to the Control room start from page 73 and continue till page 387. Shri H.L. Kapur, ACP, predecessor of Shri Ajmer Singh Chauhan, ACP, had the same experience about the applicant.

21. The entire arguments of the learned counsel for the applicant get demolished regarding non-supply of the relevant documents and other materials by a letter sent by the applicant himself at page 103 of the abovementioned file which states: "I have not prepared myself to face the departmental enquiry as I have missed the summary of allegations along with other papers and as such I may be allowed to see the relevant files....." It seems that all the relevant papers along <sup>with</sup> the memo containing articles of charges and list of documents furnished to him were lost by the applicant.

And that is the reason why for full 9-10 months he did not respond to the various letters/communications sent to him.

B

24

22. Part II of the DE File No.1523 contains list of statements of all the PWs and DWs and the cross-examination of the PWs by the applicant. It also contains the charges, the documents, witness relied upon during the enquiry. It contains the evidence of various witnesses cross-examined by the applicant. It also contains written statements submitted by the applicant at page 65 to 80. The examination-in-chief and cross-examination are all available from page 49 to page 64. The findings of IO are available at pages 81 to 111 of this file. A perusal of this will indicate that the IO has not blindly accepted the versions of the PWs and DWs produced by the rival parties. He has examined the evidence tendered taking into consideration the cross-examination and analysed every article of charge and evidence available on a particular charge and then recorded his findings. The enquiry report also indicates that no incriminating material was found in the emergency drug kit of Dr. J.M. Gulati and no report about cancellation <sup>of FIR</sup> by the applicant was taken up in the court. The investigation was done by the applicant <sup>on</sup> 7.7.80 and when he was transferred his successor <sup>to</sup> submitted the cancellation report <sup>of</sup> this case under Section 309 IPC to ACP, Patel Nagar on 25.2.81. This was the testimony of Shri Balbir Singh, Constable No. 985/C Patel Nagar. From this it was inferred that he kept ~~the case pending~~ just to extort money. Shri Ram Murti Sharma, ACP <sup>admitted</sup> that he was ACP I/c of Patel Nagar PS and <sup>that</sup> he ~~had~~ forwarded a report of Maman Singh, SHO to DCP (Central) with his comments on it about the applicant. He was shown the

Contd.....16/-

*[Handwritten signature]*

the reports submitted by him and he admitted that these were his reports and that he wanted nothing to add to what he has already said in his report against the applicant.

23. Taking a total view, it is clear that one of the two disinterested witnesses, Shri Subhash Nayyar, only stated that he signed the seizure memo but he was not present when the money was demanded and paid or was subsequently refunded. Shri Ram Murti Sharma, ACP who had called the applicant and said that he was a habitual bribe extortionist, stood by his report and did not resile.

24. Shri Maman Singh reiterated whatever report he had sent to ACP, Patel Nagar Shri Ramamurti. When the applicant was heard in person in Orderly room of DCP the applicant mentioned about illicit relationship of the SHO with some undesirable woman and the DCP did not accept this because during the cross examination of the SHO this was never raised and as such the law of estoppel was applied by DCP. The charge of malafide is easy to level but difficult to prove against the SHO. The learned counsel for the applicant has not been able to prove the charge of malafide. As <sup>Chief</sup> Justice Chandrachud has rightly pointed out that the charge of malafide is a very heavy burden to discharge and mere allegation and accusations cannot prove it. There must be some concrete instances and evidence to prove that conduct of a particular person was guided by prejudice or malice. None of the sort



has been done in this case. The charge of mala fide against Shri Maman Singh, SHO is also not acceptable. 76

25. The DE File Part-II contains the orders of the Disciplinary Authority, appeals and revision petitions and a careful study of this file clearly indicates that the rules and procedures as envisaged in Delhi Police (Recruitment & Appointment) Rules and Delhi Police (Punishment & Appeal) Rules have been fully complied with. We do not find any violation of rules or any sub-rule of Rule 16 of the Delhi Police (Punishment & Appeal) Rules, 1980. After the loss of file containing papers and documents by the applicant, he was permitted to prepare his defence after inspecting and taking extracts of the official documents and there was no refusal of permission to do so. Although Rule 16 states that the applicant was responsible for the loss of documents supplied to him, <sup>authorities</sup> the / were competent to refuse permission to inspect the concerned files but in order to observe the principles of natural justice and to afford full opportunity <sup>the applicant to</sup> to / defend his case they allowed him to have the inspection and take extracts. Before inflicting the punishment, although it is <sup>not</sup> necessary now after the amendment to the Constitution to give a show-cause regarding punishment proposed to be inflicted, but the competent authority did the same and gave him full opportunity to state his case <sup>submitting written statements and further</sup> by / by calling him in the orderly room. He was given a patient hearing where he raised some issues regarding the illicit relationship of the SHO which he had not raised during the time of cross-examination or on any other occasion. It is only after giving him full opportunity and having regard to the findings submitted by the I.O. that the final orders of punishment of dismissal were passed. The

Contd.....18/-

2

Appellate and the Revisional Authorities also did not find any material in the appeal or the revision petition to differ from the punishment inflicted by the competent authority on the basis of the findings of the I.O.

26. A perusal of the Character Roll and service record of the applicant also indicates that the statements of the learned counsel for the applicant that the applicant had an unblemished record of service, is not borne out by facts. His character roll and service record have been submitted before us and while going through the same we have found that the applicant was censured by Mrs. Kiran Bedi, the then DCP for a very serious lapse and his representation against the appeal was also rejected by the competent authority. The file of the Vigilance Branch of Delhi Police has been submitted and this shows how the trap was laid, what were the materials before them and how it ended in a fiasco by not catching the delinquent red handed. There was another censure by Shri T.R. Kakkar, DCP and this involved dereliction of duty on <sup>applicant's</sup> ~~his~~ part. This censure was awarded on 1.3.80.

27. There is yet another very serious charge, as mentioned above, for which a separate DE was recommended by the ACP to the DCP. That was regarding a person against whom an FIR was registered in Patel Nagar PS who was holding a passport and was allowed to slip away with the active connivance of the applicant. All these materials in the file speak volumes about the conduct of the applicant.

28. As regards denial of the principles of natural justice as argued by the learned counsel for the applicant, it may be stated that the requirements of

Contd.....19/-

B

natural justice in a case like this is that the delinquent should know the nature of the accusation. The applicant was furnished with memo of charges, list of witnesses and the evidence to be tendered by them and other articles of charges to be relied upon in the DE. Thus he knew the nature of the accusation and the charges for which he was being tried departmentally. The second requirement of the principles of natural justice is that he should be given adequate opportunity to state his case. This was done by the authorities even going out of way, as mentioned above. Second show-cause notice for inflicting punishment was not necessary and even then the applicant was given a second show-cause while tentatively agreeing with the findings of the I.O. and proposing provisionally to inflict punishment of dismissal. The applicant filed his representation and was also allowed to be heard in person by the DCP in the orderly room and on the basis of a written statement and personal hearing and the enquiry report, necessary punishment was inflicted on him. There is no evidence to show that the authorities acted in a bad faith. The authorities, keeping in view all the provisions of relevant rules and the various Acts, inflicted the punishment of dismissal on the applicant. The orders of the Disciplinary, Appellate and Revisional Authorities cannot be called to be non-speaking. The Disciplinary Authority has analysed the materials before coming to his findings. He has not blindly accepted the report of the I.O. The Disciplinary Authority is not required to record his reasons on every article of charge once he agrees with the findings of the I.O. It is only when he

B

Contd.....20/-

disagrees he is required to record the reasons otherwise not. The appellate and revisional authorities considered the various facts and circumstances and rejected the appeal and revision filed by the applicant. The provisions of statutory rules 15 and 16 of Delhi Police (Punishment & Appeal) Rules, 1980 and provisions of PPR 16.38 and 16.40 have been fully complied with. The order of dismissal cannot be faulted with. The application fails and is dismissed leaving the parties to bear their own costs.

29. We are distressed to observe that there has been a sense of apathy in dealing with this case by ~~the learned counsel~~ for respondents who did not even go through the departmental files which were available with him to prepare his brief. All the files <sup>numbered</sup> ~~namely~~ three were simply passed on to us for close scrutiny in order to reach correct conclusions. This is a sad commentary <sup>on</sup> how cases involving police officers are being dealt with.

(B. K. Singh)  
Member (A)

(J. P. Sharma)  
Member (J)

vpc