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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 1703/88.

Date of decision 3.12.1993

THE HON'BLE SHRI B.S. HEGDE, MEMBER (JUDICIAL)

THE HON'BLE SHRI P.T. THIRUVENGADAM, MEMBER (A)

Shri Rohtas Singh

S/o Shri Jag Ram

r/o Mohalla Mahal Wara, 8th Biswa,

Vill: & P.O. Gurgaon, Distt. Gurgaon,

(Haryana)

.. Applicant

(By Advocate Shri A.S. Grewal)

Versus

1. Union of India,
through the Secretary,
Ministry of Home Affairs,
Government of India,
New Delhi.

2. The Lt. Governor, Delhi through the
Chief Secretary, Delhi Administration,
Delhi.

3. The Commissioner of Police Delhi,
Delhi Police H.Q., M.S.O. Building,
I.P. Estate, New Delhi.

4. Addl: Commissioner of Police (R) Delhi,
Police Headquarters, M.S.O. Building,
I.P. Estate, New Delhi.


5. Dy. Commissioner of Police North Distt: Delhi,
Near P.S. Civil Lines,
Delhi.

.. Respondents

(By Advocate Shri B.R. Prashar)

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[Hon'ble Shri B.S. Hegde, Member (Judicial)]

The applicant has filed this application

under Section 19 of the Administrative Tribunals Act,

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1985 challenging the impugned orders dated 29.4.1981, 27.7.1981, 6.2.1984 and 8.7.1987 respectively.

2. The applicant was appointed as Sub-Inspector in the Delhi Police with effect from 25.3.1966. During the course of his employment in the Delhi Police, he was posted at Police Station, Civil Lines, North District, Delhi and entrusted the investigation of case F.I.R. No. 599, dated 4.7.1978 and F.R. No. 659, dated 23.7.1978 U/S. 279/337 IPC, P.S. Civil Lines, Delhi. It is alleged that the applicant ~~thus~~ absented himself for 3 months and did not hand over the case files. Thus the investigation was delayed. The applicant after 3 months handed over the case files without injury sheets. He was as such proceeded against departmentally and awarded the punishment of forfeiture of five years approved service permanently entailing reduction in pay from Rs. 530/- p.m. to Rs. 455/- p.m. The applicant's appeal against the penalty was rejected but in revision, the punishment of forfeiture of five years approved service permanently entailing reduction in pay was modified and reduced to that of forfeiture of two years service permanently. The applicant aggrieved by the punishment made representation to the Lt. Governor, Delhi, however, the same was also rejected.

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3. It is averred that the applicant fell sick on 1.8.78 and remained ^{on} medical leave till 23.11.78.

For the applicant's lapse in handing over the required files before he proceeded on leave, the department had initiated departmental enquiry and issued the following charge-sheet :-

" I, Qamar Ahmed Asstt. Commissioner of Police, Kotwali do hereby charge you S.I. Rohtash Singh No. D-581 for your grave negligence in the discharge of official duties in that while posted at P.S. Civil Lines you were entrusted with the investigation of case F.I.R. Nos. 599 dt. 4.7.78 and 609 dated 23.7.78 u/s 279/337 I.P.C. P.S. Civil Lines. You did not deposit the injury sheet of case FIR No. 659 for obtaining the M.D.C. Result from Hindu Rao Hospital and thus delayed the investigation for three months without any reason. You also absented yourself for three months and did not hand over the case files to S.H. O./Civil Lines resulting in delay in investigation of the cases.

This act renders you liable to be punished u/s 21 Delhi Police Act, 1978."

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In the departmental enquiry various evidences and documentary proofs were produced and the Inquiry Officer, after going through the evidence on record had come to the conclusion that prosecution has proved the charge levelled against the delinquent officer. In the Enquiry Report, it is stated that it was the moral duty of the officer S.I. to obtain leave/ permission of S.H.O. to avail the medical/rest which he failed to do so, and the defaulter also fails to prove that he had handed over the files on 1.8.1978 and had found him guilty of the charge.

4. As against the findings of the Inquiry Officer, the Disciplinary Authority issued a show-cause notice dated 17.2.1981 and perused the records and heard the delinquent officer in person. It is observed, that stated the applicant/ in addition to what he has stated in his written reply to show-cause notice that there is nothing further to add. Accordingly, the Disciplinary Authority has imposed punishment of five years approved service of S.I. Rohtash Singh is forfeited permanently entailing reduction in pay from Rs. 530/- p.m. to Rs. 455/- p.m. with effect from the date of issue of the order which would meet the ends of justice vide dated 29.4.1981.

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5. As against this, the applicant preferred an appeal to the Additional Commissioner of Police, who also, after considering various aspects, came to the conclusion that since the charge against the applicant has been fully proved and that he has acted in irresponsible manner. Since a lenient view has already been taken by the Punishing Authority, he finds no reason to interfere against the punishment order. Accordingly, the appeal was rejected vide dated 27.7.1981. As against the Appellate Order, he preferred a revision petition before the Commissioner of Police, who after considering the relevant documents and records, observed that no doubt whenever a charge is proved and the defaulter is punished, the consequences must flow out of the punishment awarded. However, keeping in view the charge against the petitioner that he did not hand over the case file of ~~case~~ FIR No. 599 dated 4.7.78 u/s 279/337 IPC, P.S. Civil Lines, Delhi for a period of three months and even thereafter when he handed over the file, the entry was not found on the file and that it was not a case of mala fide conduct but of negligence and remissness in the discharge of duty, the punishment awarded to him found to be excessive and the Revisional Authority modified the punishment of forfeiture of two years service permanently vide dated 6.2.84. Thereafter, the applicant made representation to

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the Lt. Governor, which was rejected by the Competent
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Authority vide dated 8.7.1987.

6. In the light of the above, since the applicant did not get any relief, he has filed this O.A. praying for the following reliefs :-

- (1) To quash the order of D.C.P., North Distt. Delhi.
- (2) To quash the order of the Addl. C.P.(R) Delhi, etc.
- (3) To quash the order of the Commissioner Police, Delhi.
- (4) To quash the order of Lt. Governor, Delhi.

7. In reply, the Respondent's stand is that the applicant was entrusted with the investigation of case FIR No. 599 dated 4.7.78 and 659 dated 23.7.78 u/s 279/337 IPC Police Station Civil Lines, he did not deposit the injury sheet of case FIR No. 659 for obtaining the M.L.C. result from Hindu Rao Hospital and thus delayed the investigation for 3 months without any reasons which amounts to a great negligence in the discharge of his duties. He further absented himself from duty without prior sanction of leave for a period of 3 months, and did not hand over the case files to S.H.O. Accordingly, departmental enquiry was conducted which was done in accordance with the rules.

8. The applicant's case is that since he

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did not get any relief from the administration, he

has filed this petition praying for the quashing

of the orders of the Disciplinary Authority, Appellate

Authority and Revision Authority etc.

9. He further urged that the impugned orders are

liable to be quashed on the following grounds :-

- (i) That the documents relied upon by the prosecution were never supplied to the applicant before examining the PWs etc.
- (ii) Departmental enquiry was conducted against the applicant in violation of instructions and rule 14(4) of the Delhi Police (Punishment & Appeal) Rules. Therefore, the entire proceedings of the departmental enquiry and the consequent punishment are liable to be quashed being ultra vires of the rules.
- (iii) The charge of not depositing the M.L.C. No. 1773/78 in respect of an injured Durga Parshad was demolished by PW 2 Constable Mohinder Singh Duty Constable of Hindu Rao Hospital, Delhi stating that the M.L.C. was deposited on 6.10.78 in the Hospital during the applicant's illness and medical rest. Further, the charge of not handing over the case files to H.C. Jagdish Parshad, DWI proved that the applicant handed over all the case files to him before proceeding on medical rest.
- (iv) Deputy C.P., North District, Delhi was incompetent to award any punishment to the applicant as he was not the applicant's

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appointing authority etc.

10. All the four allegations have been denied by the Respondents and on perusal of the record, we find that the contentious issues raised by the applicants have no bearing on the charges levelled against him. It is incorrect to state that Deputy C.P. of Delhi is not the Appointing Authority of the applicant. The charge against the applicant was that he absented himself for a period of 3 months and did not hand over the case files to S.H.C. Civil Lines resulting in delay of the investigation of the cases. Further, he did not deposit the injury sheet of case FIR No. 659 for obtaining the M.L.C. result from Hindu Rao Hospital and thus delayed the investigation. In the Enquiry Proceedings both the charges have been proved and it is an admitted fact, that he had proceeded on medical leave without prior sanction of the competent authority though the leave was later on sanctioned.
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11. On the ~~the~~ findings of the Inquiry Officer, the Disciplinary Authority had imposed a penalty of forfeiture of five years approved service permanently entailing reduction in his pay from Rs. 530/- to Rs. 455/- p.m. w.e.f. the date of issue of the order. The Appellate Authority also agreed with the findings of the Disciplinary Authority. However, the Revisional Authority modified the punishment

of forfeiture from 5 years to 2 years service permanently. Though he preferred a representation to the Lt. Governor, the same was considered and rejected.

12. Therefore, in the light of the above, the applicant cannot say that the departmental inquiry had not been conducted in accordance with the normal procedure and sufficient opportunities were not given to the applicant to defend himself and repudiate the charges levelled against him. Since it is an admitted fact that he proceeded on leave without prior sanction and did not produce the M.L.C. in a particular F.I.R. case, a departmental enquiry was ordered and completed in accordance with law.

13. In this petition except stating that the various authority's orders may be quashed, the applicant has not stated anywhere that the Respondents are biased or orders passed in any way are mala fide. In fact, the Revision Authority, after perusing the entire record of the applicant, took a lenient view and also observed that keeping in view the charge against the petitioner that he did not handover the case file FIR 599 dated 4.7.78 for a period of 3 months even thereafter when he handed over the file, the entry was not found on the file. Therefore, it is not a case of mala fide conduct but of

negligence and remissness in the discharge of duties.

Since the Revisionary Authority found that the punish-

ment imposed was rather excessive, it reduced the

punishment of forfeiture to two years service permanently.

Therefore, the applicant, in any manner, cannot assail

the orders of the respective authorities referred to in

the relief column.

14. Further, in view of the observations made by

the Supreme Court in AIR 1989 SC 1185 - UOI vs. Parma

Nanda, which is reproduced below, it cannot be said

that the Tribunal can sit over the judgement of the

competent authority which passed the impugned orders

unless the order is mala fide or is based on no evidence.

In the present case, such a plea has not been taken

nor pressed :-

"We must unequivocally state that the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the finding of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse. It is appropriate to remember that the power to impose penalty on a delinquent officer

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is conferred on the competent authority either by an Act of legislation or rules made under the proviso to Article 309 of the Constitution. If there has been an enquiry consistent with the rules and in accordance with the principles of natural justice what punishment would meet the ends of justice is a matter exclusively within the jurisdiction of the competent authority. If the penalty can lawfully be imposed and is imposed on the proved misconduct, the Tribunal has no power to substitute its own discretion for that of the authority. The adequacy of penalty unless it is malafide is certainly not a matter for the Tribunal to concern with. The Tribunal also cannot interfere with the penalty if the conclusion of the inquiry officer or the competent authority is based on evidence even if some of it is found to be irrelevant or extraneous to the matter."

15. In the circumstances, we are of the view that there is no merit in the application and the same is liable to be dismissed. We accordingly dismiss the application with no order as to costs.

P. T. Thiruvengadam
(P.T. Thiruvengadam)
Member (A)

B. S. Hegde
(B.S. Hegde)
Member (J)