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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench, New Delhi.

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O.A. 1893/88

06 January 1994

Hon'ble Shri CJ Roy, Member (J)

Hon'ble Shri SR Adige, Member (A)

Shri Pratap Singh
Head Constable in Delhi Police, Delhi.
6/o Mr. Mukul Talwar (Advocate)
243, Lawyer's Chambers, Delhi High Court
New Delhi-3.
By Advocate None

...Applicant

1. Union of India Through
Secretary (Home)
Delhi Administration
5, Alipur Road
Shyam Nath Marg,
New Delhi.
2. Addl Commissioner of Police, Operations,
PHQ, Delhi.
3. Deputy Commissioner of Police,
(Prov. and Lines)
Delhi.

...Respondents

By Advocate Shri BS Oberoi

O R D E R (Oral)

Hon'ble Shri CJ Roy, Member (J)

1. It is an old case. Therefore we have decided to hear the case of respondents and dispose the case.
2. The facts of the case are on 20 Mar 1985 at about 2 PM one Shri Paras Ram, Mali working in NDMC found a purse near Patel Chowk containing cash Rs.400/- of Indian currency and 121 U.S. dollars and certain documents. It is alleged that the said purse was shown by Paras Ram to Shri Ramesh Kumar, a lottery agent and that it is alleged that on his advice the foreign currency was to be deposited in the Police Station. It is further alleged that in the conduct

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of the three constables who are not posted in the Parliament Street, Police Station noticed one Shri Jai Ram, sweeper who brought the said matter to the notice of the applicants. Head Constable Pratap Singh. The said Paras Ram was taken in the Police Station in the Mounted Barrack and the applicant took the purse from Shri Paras Ram and took out the 6 US dollars of 20 denominations and handed over these dollars to Constable Suresh Chand to get them encashed into Indian Currency. The said constable with the help of Shri Jai Ram encashed the dollars into Indian currency of Rs.1400/- and got them distributed amongst the alleged police officers along with Shri Jai Ram and Shri Raj Kumar. On a complaint against these officers the amount was also recovered from all the defaulters. Then a departmental enquiry was held and a punishment was imposed for forfeiting three years of service and on that an appeal was preferred by them which was dismissed. Hence the applicant filed this OA.

3. In the OA the applicant raised a ground that under section 15(1) of the Delhi Police(Punishment and Appeal) Rules 1980 a preliminary enquiry ought to have been held, and that since it was not held, the enquiry suffered and it should be quashed because no order under rule 15(1) was passed by the disciplinary authority to hold an enquiry. He also contended that no order was passed under rule 15(2) by the Additional Commissioner of Police as required by the Said disciplinary rules. The respondents have filed a counter stating that the purse belonging to one Shri Shyam Kapoor which was found by Shri Paras Ram lying near Patel Chowk in the area of Cannought Place Police Station. Instead of depositing the unclaimed property in the Police Station, the amount was encashed through Constable Suresh Chand and thereby

the said amount was distributed amongst themselves resulting into misappropriation of the said amount. The said act amount to grave misconduct, unbecoming of a police officer and therefore a departmental enquiry was conducted, and after due completion of the enquiry, a clear finding was given by the enquiry officer that the case against the applicant was proved, and penalty imposed against the applicant, was in order. The respondent have contended that the grounds raised by the applicant that the proceedings of departmental enquiry are vitiated because permission of the Additional Commissioner was not taken under section 15(2) of the Delhi Police (Punishment and Appeal) Rules is without basis. Rule 15(2) applies only to a case in which a preliminary enquiry discloses the commission of cognizable offence by the police officer of subordinate rank in his official relation with the public, only then permission of the Additional Commissioner is necessary.

4. After perusing the record the point for consideration is whether the applicant is entitled for the relief claimed by him i.e. quashing the said departmental enquiry, the enquiry report, punishment order and rejection of appeal and treat the suspension on duty and departmental enquiry is biased, illegal and for other reliefs.

5. Annexure-A is the order of Deputy Commissioner of Police, Old Police Lines, Delhi in which Shri Bhag Singh was appointed to conduct a regular departmental proceedings against these police officers for the details of the chargesheet mentioned in para 1 of Annexure A. Annexure B is the statement of Shri Paras Ram in which he identified all the defaulters including

the applicant and conversion of the said amount. At page 17 is the statement of Shri Jai Ram who corroborated the statement of Shri Paras Ram and also narrated the incident. The statement of other witnesses are also recorded in Hindi and it was translated to us by the learned counsel for Respondent in English and all confirmed the incident with reference to the applicant. The applicant also examined the Defence Witnesses and that he raised bias against the enquiry officer but he has not questioned the same during the process of enquiry. Therefore the question of bias is not established by the applicant. The other point raised by him that there ought to have been prior approval of Additional Commissioner of Police is also not maintainable in this case because as per rule 15(2) of the Delhi Police (Punishment and Appeal) Rules it is clear that a preliminary enquiry is necessary only in a case which discloses the commission of cognizable offence of a police officer of subordinate rank in his official relation with the public. Only then is the permission of the Additional Commissioner required. Here it is not the case of the applicant that he is posted at the place of incident; nor he is discharging official function towards public. If the amount is found by Shri Paras Ram, the logical conclusion should have been the depositing of the said amount in the Police Station and lodging of complaint that it was found at such and such place. Instead the amount was converted into Rupees and taken by them.

6. Since we are not reappraising the evidence of the case we feel that the applicant has failed to establish that the officer is biased and the enquiry

is against principles of natural justice. We also see Annexure H copy of the appeal against order of Deputy Commissioner of Police and also the order passed by the Additional Commissioner of Police. Since all of the above points raised by the applicant in his appeal to the Additional Commissioner were considered by the Additional Commissioner we do not see any infirmity in the order.

7. Under the circumstances, the applicant has not made out a case and therefore the case is dismissed as no order to costs.

K. Adige
(K. Adige)
Member (A)

CJ. Roy
(CJ. Roy)
Member (J)

LCP