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Central Administrative Tribunal  
Principal Bench: New Delhi

OA No.1981/88

New Delhi this the 25th Day of January, 1994.

Shri N.V. Krishnan, Vice-Chairman (A)  
Shri B.S. Hegde, Member (Judicial)

Narain Singh,  
S/o late Sh.Chandgi Ram,  
10th Bn., D.A.P. Lines,  
Pitam Pura, Delhi.

...Applicant

(By Advocate Sh. Shankar Raju)

Versus

1. Union Territory of Delhi  
(Delhi Administration)  
through the Lt. Governor  
of Delhi, Raj Niwas,  
Civil Lines, New Delhi.
2. The Commissioner of Police,  
Delhi Police, Police Headquarters,  
I.P. Estate, New Delhi.
3. Additional Commissioner of Police,  
(Range), Delhi Police, Police  
Headquarters, I.P. Estates, New Delhi..
4. The Deputy Commissioner of Police,  
(North District),  
Civil Lines, Delhi.

...Respondents

(By Ms. Veena Kalra, proxy counsel for Ms. Gita Luthra,  
Counsel.)

ORDER (ORAL)

(Hon'ble Mr. N.V. Krishnan)

This is a case where the applicant, who is an Assistant Sub Inspector of Police is aggrieved by the penalty of censure awarded to him by the fourth respondent - the Deputy Commissioner of Police, Delhi, which has been confirmed in appeal by the third respondent - Additional Commissioner of Police..

2. The brief facts of the case are as follows:-

2.1 The disciplinary proceedings were initiated against the applicant by the Annexure A-1 order dated 15.7.85 with which the summary of allegations is

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enclosed. That summary reads as follows:-

"It is alleged against you ASI Narain Singh No.2608/N, while posted at P.S. Narela that you brought a truck No.DHL 3418 belonging to Sh. Dale Ram S/o Sh. Mai Dass R/O 965, Pana Paposian Ward No.8, Narela Delhi at Police Station Narela. The soil loaded truck, driven by Puran S/o Sh. Dale Ram was carrying soil from a nearby field. The soil of a field belonging to one Angoori Devi had been purchased by Sh. Dale Ram. It is also alleged that you released the truck No.DHL 3418 only after obtaining Rs.1100/- from Sh. Dale Ram and his son Puran.

The above act of you ASI Narain Singh No.2608/N amounts to gross misconduct and this render you liable to be dealt with departmentally U/S 21 of Delhi Police Act, 1978."

2.2 An Enquiry Officer was appointed who submitted his findings which were annexed ultimately with the Annexure-3 show cause notice dated 20.12.85 issued by the fourth respondent to <sup>the applicant</sup> show cause why the applicant should not be censured and the suspension period should not be treated as period not spent on duty. In this report, the Enquiry Officer has come to the conclusion that the charge has not been proved against the applicant. The fourth respondent, however, has disagreed with the his findings for the following reasons given in the show cause notice:-

"The DE has been completed by ACP/Subzi Mandi. The E.O. submitted his finding dated 26.11.85 vide which he has held that the charge against the defaulter has not been proved. I have gone through the record of the D.E. file and also the finding of the E.O. and do not agree with the E.O's. finding. While it is correct that the charge relating to the acceptance of Rs.1100/- has not conclusively proved but it has been established from the statement of P.Ws. that the truck of the complainant as well as the

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complainant and his son were taken to the P.S. by the defaulter and later the truck was released by the ASI. Even the D.Ws. produced by the defaulter have not denied this fact and have stated that the truck bearing a different NO. was brought at the P.S. by the defaulter and the complainant was also called at the P.S. and admonished. The defaulter while doing so was supposed to bring the facts on record and also should have indicated detailed reasons in support of his action but he failed to do so which proves the ulterior motive of the defaulter. Therefore, disagreeing with the E.O's. finding I call upon ASI Narain Singh No.2608/N to show cause as to why his conduct should not be censured and his suspension period should not be treated as period spent not on duty."

2.3 After considering the reply of the applicant which is not on record, the disciplinary authority passed the order dated 7.3.1986 imposing upon the applicant the penalty of censure and directing that the period of suspension from 4.12.84 to 5.2.85 will not be treated as spent on duty.

2.4 The applicant filed an appeal which has been dismissed on 11.8.86 by the third respondent - Additional Commissioner of Police.

2.5 It is in these circumstances that the applicant has filed this O.A. He has made a number of prayers which we find are totally unconnected with this O.A. As far as we can see, the only prayer which would be considered is about the illegality of the impugned orders of the disciplinary authority and the appellate authority.

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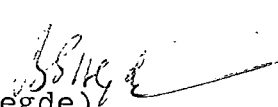
3. The respondents have filed a reply contending that the disciplinary proceedings have been conducted and completed in accordance with the procedure and, therefore, neither the order of the disciplinary authority nor of the appellate authority can be assailed by the applicant.

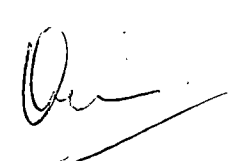
4. When the matter came up for final hearing today, the learned counsel for the applicant submitted that the order of disciplinary authority has to be quashed on the single ground that the penalty of censure has been awarded for reasons totally unconnected with the charge. He refers us to paragraph-2 of the order of the disciplinary authority, which we have extracted above, and points out that the reasons <sup>is why</sup> on the penalty of censure has been given is not that the charge framed against him <sup>it is</sup> ~~must be~~ proved but that it has been established from the statement of witnesses that the truck of the complainant as well as the complainant and his son were taken to the Police Station by the applicant and later the truck was released by the A.S.I. (applicant). The charge against the applicant is that while doing so he did not bring these facts on record and he should have indicated reasons in support of his action which he failed to do and which proves his ulterior motive. The learned counsel for the applicant is on strong grounds in assailing this order because we find that the reasons for imposition of the penalty are not mentioned in the summary of allegations annexed to the Annexure A-1 memorandum.

5. In the circumstances, we find that the penalty imposed is unjustified and accordingly we quash the impugned Annexure A-V order dated 7.3.86 and the Annexure

A-VII order dated 11.8.86 passed by the disciplinary authority and appellate authority respectively. We notice that the applicant has remained under suspension for the period from 4.12.84 to 5.2.85 which was being treated as period not spent on duty by the disciplinary authority. As we have quashed the order of the disciplinary authority, it is only fair that this authority should apply his mind again as to how this period should be treated and pass the necessary orders within two months from the date of receipt of this order.

6. The O.A. is allowed, to the extent indicated above with no order as to costs.

  
(B.S. Hegde)  
Member(J)

  
(N.V. Krishnan)  
Vice-Chairman

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