

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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Regn.No.OA 2052/88

Date of decision 4-5-89

Shri Jagdish Ram Kataria

.....Applicant

Vs.

Union of India & Others

.....Respondents

For the Applicant

.....In person

For the Respondents

.....Ms. Ashoka Jain,
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN (J)

THE HON'BLE MR. M.M. MATHUR, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *yes*
2. To be referred to the Reporters or not? *yes.*

JUDGMENT

(The Judgment of the Bench delivered by Hon'ble Mr. M.M. Mathur, Administrative Member)

The question whether a Sub-Inspector of Police appointed under the Delhi Police Act, 1978 would be entitled to claim conveyance charges from his residence to office to attend roll calls in the morning and evening while he is placed under suspension has been raised in this application filed under Section 19 of the Administrative Tribunals Act, 1985.

2. The applicant while working as Sub-Inspector (Executive) in the Delhi Police was placed under suspension. On 7.1.88, the Assistant Commissioner of Police, Special Branch, Delhi

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passed an order to the effect that all persons under suspension shall be put for roll calls daily at 9.00 A.M. and 5.00 P.M. It was also stated in the order that non-compliance thereof would justify departmental action against the person concerned. (vide Annexure-A-3, page 12 of the Paper Book).

3. The place of residence of the applicant during the period of his suspension has been Mangol Puri and he is required to attend the roll calls at the Police Station at Lodi Road. The applicant has been attending the roll calls pursuant to the aforesaid order dated 7.1.1988. According to him, the fare prescribed by the Directorate of Transport, Delhi for auto-rickshaw from Mangol Puri to Lodi Road is Rs.28/-. It would mean that for each attendance at Lodi Road from Mangol Puri, he has to incur Rs.56/-. He has, therefore, prayed for reimbursement of conveyance charges amounting to Rs.112/- per day. The applicant has sought reimbursement from the respondents of the conveyance charges incurred by him since 15.1.1988, but this has not been agreed to by the respondents. The respondents have drawn attention of the applicant vide their memo dated 9.9.88 to the amendment to Rule 26 of the Delhi Police (Punishment & Appeal) (Amendment) Rules, 1980.

4. The applicant has contended that the impugned order dated 9.9.88 is illegal.

5. The respondents have contended in their counter affidavit that the applicant has been directed to attend

the roll calls as per the provisions of Rule 16.2(2) of the Punjab Police Rules.

6. We have carefully gone through the records of the case and have heard the applicant in person and the learned counsel of the respondents. Rule 26 of the Delhi Police (Punishment & Appeal) Rules, 1980 which applies to the applicant deals with suspension. This rule was amended on 22nd July, 1988 by the Administrator in exercise of the powers conferred by Sub-sections(1) and(2)of Section 146. Act, 1978. of the Delhi Police. By this amendment, a new sub-rule (3) was added which inter alia reads as follows:-

" Amendment (3) (i) During the term of such suspension to Rule 26 the powers, functions and privileges vested in him as a Police Officer shall be in abeyance, but he shall continue to be subject to the same responsibilities, discipline and penalties and to the same authorities, as if he had not been suspended.

(ii) A Police Officer under suspension shall be transferred to the Lines, if not already posted there. He shall attend all roll calls and shall be required to perform such duties and to attend such parades as the Deputy Commissioner of Police may direct, provided that he shall not perform guard duty or any other duty entailing the exercise of the powers or functions of a Police Officer; shall not be placed on any duty involving the exercise of responsibility and shall not be issued with ammunition. A Police Officer under suspension shall ordinarily be confined to lines when off duty, but shall be allowed reasonable facilities for the preparation of his defence."

(Vide Annexure A-2, pages 9-10 of the Paper Book)

7. By the same amendment, a new Rule 33 was added which reads as follows:-

" With the coming into^{the} force of these rules, the corresponding provisions contained in Punjab Police Rules relating to status and treatment of officers under suspension shall stand superseded and these

rules shall operate and be in force subject to the provisions, as contained in the provision to Sub-Section (1) & (2) of Section 149 of the Delhi Police Act, 1978."

(vide page 10 of the Paper Book)

8. It will be noticed that the new Sub-Rule (3) stipulated that a Police Officer under suspension shall be transferred to the Lines if not already posted there. He shall also attend the roll calls and shall be required to perform such duties and to attend such parades as the Deputy Commissioner of Police may direct. A Police Officer under suspension shall ordinarily be confined to the Lines when off duty, but he shall be allowed reasonable facilities for the preparation of his defence.

9. The object underlying the aforesaid amendment is that even after a Police Officer is placed under suspension, he is under obligation to attend the roll calls as he belongs to a disciplined force. There is also a basic assumption that a Police Officer under suspension shall be transferred to the Lines if not already posted there. The amended rule does not envisage a Police Officer staying at his residence while under suspension. The fact that the applicant in the instant case was not transferred to the Lines, but was permitted to continue to reside at his house at Mangol Puri, has given rise to his claim for reimbursement of conveyance charges incurred by him.

10. While amending Rule 26 as mentioned above, the Delhi Administration did not make any provision for reimbursement of conveyance charges incurred in such cases.

11. Normally, an officer placed under suspension cannot be

asked to render any service or perform any duty. In case, the authorities concerned consider it to be necessary and expedient that the employee concerned should come to the office and sign the attendance register every day, the to and fro conveyance charges incurred by him for attending the office from his residence will have to be reimbursed to him (vide Nazmul Hasan Vs. Sr. Superintendent RMS Gorakhpur and Others, ATR 1986(2) CAT 554).

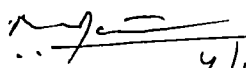
12. In exercise of the powers conferred by Section (5) of the Delhi Police Act, the Administrator has vide notification dated 17th December, 1980 prescribed that the rules and orders mentioned therein shall apply to all subordinates, civilians and Class-IV employees of the Delhi Police in addition to the rules and regulations made under the aforesaid Act. One of the rules enumerated in the notification is "Supplementary Rules." It has also been stated in the notification that, in case ^{of} any conflict _^ between provisions of the rules framed under the Delhi Police Act and the Central Government rules adopted under the said notification, the provisions of the rules framed under the Delhi Police Act shall prevail.

13. We have no doubt in our mind that in the absence of any specific provision in the Delhi Police Act, 1973 or the rules made thereunder, regarding reimbursement of conveyance charges incurred by a Police Officer placed under suspension, who is required to attend roll calls every day, he would be entitled to reimbursement of conveyance charges to the extent as admissible under the

Supplementary Rules. We, however, make it clear that it will be open to the Administrator to make a suitable provision in the rules made under the Delhi Police Act, 1978 to provide for the quantum of such charges which could be reimbursed to a Police Officer in such cases. // However, until the rules are made by the Administrator in this behalf, the provisions contained in the Supplementary Rules would be applicable. In this view of the matter, the applicant will be entitled to reimbursement of conveyance charges incurred by him from 15.1.1988 for the journeys undertaken from his residence in Mangol Puri to his office in Lodi Road to attend the roll calls to the extent ^{admissible} under the Supplementary Rules.

14. The respondents shall comply with the above directions within one month of the receipt of a copy of this order.

There will be no order as to costs.


(M.M. MATHUR) 4/5/88
ADMINISTRATIVE MEMBER


(P.K. KARTHA)
VICE CHAIRMAN (J)