

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

O.A. No. 2083/1988. Date of decision: January 9, 1991.

Shri Naresh Kumar ... Applicant.

Vs.

Union of India & Others ... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN.

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A).

For the applicant ... Shri A.S. Grewal, counsel.

For the respondents ... Ms. Ashoka Jain, counsel.

(Judgment of the Bench delivered by
Hon'ble Mr. Justice Amitav Banerji, Chairman)

Shri Naresh Kumar, the applicant, served in the Delhi Police as a Constable. His services have been terminated under Rule 5(i) of Central Civil Services (Temporary Services) Rules, 1965 (hereinafter referred to as the '1965 Rules'). Being aggrieved, he approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985. He has prayed for setting aside of the impugned order dated 9.9.1987 (Annexure 'B') and he be declared to be in-service. He has also prayed for any other relief which may be deemed fit and proper in the circumstances of the case.

The relevant facts are as follows:

The applicant was appointed in the Delhi Police

on 1.2.1986. During the course of his employment in Delhi Police, he was detailed for duty at Gazipur Check Post on the night of 31.8.1987/1.9.1987. He is alleged to have stopped Truck No. DEG 5907 and took ^a Rupees ten note from Driver Harjeet Singh, son of Shri Sohan, resident of R.S.Bajwa Road Lines, Giani Border, Delhi. His services were dispensed with vide order dated 9.9.1987 by the D.C.P./10th Bn. D.A.P. Delhi. The applicant alleges that the respondents did not initiate any departmental action against him. Aggrieved by the order of termination, the applicant presented a representation before the Commissioner of Police, Delhi on 27.9.1987. According to the applicant, his representation was not considered properly and the same was rejected by the Commissioner of Police, Delhi, which was conveyed to him by the D.C.P. 10th Bn. D.A.P.'s letter dated 21.12.1987 (Annexure 'D').

Learned counsel for the applicant Shri A.S.Grewal contended that the above facts show that there was an alleged misconduct by the applicant and as such it was incumbent on the respondents to initiate disciplinary proceedings against the applicant. His services could not be terminated under the provisions of Rule 5(i) of the C.C.S(TS) Rules. He urged that the impugned order dated 9.9.1987 appears to be innocuous but it is open to the Court to lift the veil to see as to what motivated the passing of the order. Learned counsel

referred to the decision in the case of SHRI SATYAVIR SINGH V. UNION OF INDIA & ORS. (OA 1748/88) decided on 31.12.1990 by this very Bench. Reference was made to the cases of JARNAIL SINGH V. STATE OF PUNJAB (1986 (3) SCC 277), HARPAL SINGH V. STATE OF U.P. AND ANR. (1988(1) ATR 77), ANOOP JAISWAL V. GOVERNMENT OF INDIA (1984 (2) SCC 369), HARDEEP SINGH V. STATE OF HARYANA AND OTHERS (1988(1) SLJ 207), SURESH CHAND V. LT. GOVERNOR, DELHI & ORS., (OA No.1004/88) decided on 20.4.1990, RAI SINGH V. UNION OF INDIA (SLR 1979(1)465), and STATE OF BIHAR V. S.B. MISHRA (AIR 1971 SC 1011). Learned counsel for the applicant urged that the view taken in the case of SHRI SATYAVIR SINGH (supra) by this Bench was fully applicable to the present case and the impugned order was liable to be quashed and the applicant be treated as continuing in service.

We have heard Ms. Ashoka Jain, counsel for the respondents also. We are of the view that the form of the order terminating the service even if apparently innocuous can be scrutinised by lifting the veil to see what motivated the issuing of the impugned order. If there is material to show that there was some recent incident or misconduct on the part of the delinquent official, then resort can be taken for disciplinary proceedings and not for termination of service under the provisions of CCS (TS) Rules. The law laid down in the case of SATYAVIR SINGH (supra) is fully applicable to the facts of the

present case and it is not necessary to reiterate the case law which has been stated there. Suffice it to say that the view taken by us in SHRI SATYAVIR SINGH's case (supra) clearly enunciates the law point after considering all the relevant decisions of the Supreme Court and the same principle is applicable to the facts of the present case.

Applying the above principles to the facts of the case, it is apparent that there was allegation of an incident which took place on the night of 31.8.1987/ 1.9.1987. It was said that the applicant had taken a ten Rupees note from Driver Harjeet Singh, son of Shri Sohan. It had to be established that he had actually done so and violated the provisions of C.C.S.(Conduct) Rules and that he failed to maintain absolute integrity. If that was established, he could be removed or dismissed from the Force. In the present case the order of his termination came within 9 days of the incident. The order of termination, seems to us, to be as a consequence of the aforesaid incident. In such a case, the principle laid down by the Supreme Court in other decisions mentioned above would be fully applicable.

We are, therefore, of the opinion that the impugned order dated 9.9.1987 passed against the applicant is liable to be quashed and the applicant be treated as if continuing in the Delhi Armed Police. He would be entitled to all consequential monetary benefits. We direct that this order be implemented within a period of six weeks from the date of receipt

of a copy of the same including payment of back wages, allowances etc. from the date of termination of his service, viz. 9.9.1987. Parties to bear their own costs.

SKS
(I.K.RASGOTRA)
MEMBER (A)

9.1.1991.

AB
(AMITAV BANERJEE)
CHAIRMAN
9.1.1991.

SKS