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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-329/88

Date of decision: 17.7.1992.

Shri Pratap Singh

.... Applicant

Versus

Administrator, Delhi
Admn. and Others

.... Respondents

For the Applicant

.... Shri Shankar Raju, Advocate

For the Respondents

.... Shri M.C. Garg, Advocate

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, 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? *No.*

JUDGMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

The applicant, who is working as a Sub-Inspector in the Delhi Police, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the impugned order of punishment dated 12.11.1987 be set aside and quashed and that the respondents be directed to reinstate the applicant with full back wages and continuity in service along with other benefits.

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2. We have gone through the records of the case carefully and have heard the learned counsel for both the parties. The applicant joined the Delhi Police as a Constable in 1955. He was promoted as Sub-Inspector in 1982. By the impugned order dated 12.11.1987, he was dismissed from service by the Deputy Commissioner of Police after holding an enquiry against him in accordance with the provisions of the Delhi Police (Punishment & Appeal) Rules, 1980. The appeal preferred by him was also rejected by the appellate authority on 19.1.1988.

3. The allegation brought against the applicant was that he made an incorrect report on the passport application form submitted by Shri Mam Chand. Enquiries made revealed that Shri Mam Chand was not living at the given address. The address given was in respect of Referees, S/Shri Ram Chand and Ashok Kumar, who were not residing at the said addresses. The applicant had, however, given a clear report about the stay of Shri Mam Chand at the given address for more than two years for issuance of passport. The person whose name had been verified as Mam Chand was, in fact, another person by name, Prabhu Dutt. This fact was verified by the Central Excise Collectorate, Delhi on 13.12.1986. The officers of the

Collectorate of Delhi arrested Shri Prabhu Dutt when he was found in possession of 26 gold biscuits of foreign origin. On further enquiries, he was found to have travelled on a valid passport issued by the R.P.O., New Delhi. The verification was done by the applicant. The allegation was that the applicant gave a false report with ulterior motive and thereby he committed gross misconduct in the discharge of his duties.

4. The applicant has challenged the validity of the departmental proceedings held against him on a variety of grounds. He has contended that the respondents did not supply him copies of the documents sought for his defence. He has also contended that the holding of the ex parte enquiry against him on the orders of the Additional Commissioner of Police, is also not legally tenable. Yet another argument is that he was appointed by the Additional Commissioner of Police and the Deputy Commissioner of Police could not have acted as the disciplinary authority.

5. The respondents have refuted the aforesaid contentions in their counter-affidavit. According to them, no preliminary enquiry was conducted and the question of supplying any statement of witnesses recorded during such enquiry, would not arise. We have also perused the relevant

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files relating to the departmental enquiry placed before us by the respondents for our perusal. No statements of witnesses were mentioned in the list of documents sought to be relied upon in the enquiry. This confirms the version of the respondents that no such enquiry was held by them.

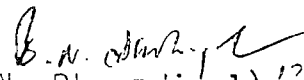
6. As regards the holding of the ex parte enquiry, it is seen from the relevant file of the respondents that the applicant absented himself unauthorisedly on 19.6.87 and despite notices issued to him, he did not participate in the enquiry. In the circumstances, we are of the view that the holding of an ex parte enquiry cannot be said to be unjustified.


7. The contention of the applicant that the disciplinary authority is the Additional Commissioner of Police and not the Deputy Commissioner of Police, is based on the notification dated 18.5.1982 regarding the admission of the name of the applicant to List-E-II (Executive) w.e.f. 15.5.1982 in terms of Rule 16 (1) of the Delhi Police (Promotion and Confirmation) Rules, 1980. The applicant has not produced any document to substantiate the contention that he was, in fact, appointed by the Additional Commissioner of Police as Sub-Inspector. The notification relied upon by him is not relevant. Apart from this,

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Section 12 (b) of the Delhi Police Act, 1978 provides that Sub-Inspectors of Police and other officers of subordinate rank may be appointed by the Deputy Commissioner of Police.

8. In the light of the foregoing discussion, we are of the opinion that the applicant is not entitled to the relief sought by him. The application is, accordingly, dismissed. The interim order passed on 14.4.1988 restraining the respondents from dispossessing him of the Government quarter No.L-11, New Police Lines, Kingzway Camp, Delhi, will, however, cease to be in operation w.e.f. 15.10.1992. There will be no order as to costs.


(B.N. Dhoundiyal) 17/1/92
Administrative Member


(P.K. Kartha)
Vice-Chairman(Judl.)