

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:NEW DELHI

Date of Order : 21.01.1992.

C.A. No. 498/1988

Shri Rajinder Singh ...Applicant.

Shri Shyam Babu ...Counsel for Applicant.

Vs.

Delhi Administration & Ors...Respondents.

Shri Dinesh Kumar ...Counsel for Respondents.

CORAM :

HON'BLE MR.P.C.JAIN,ADM.MEMBER.

HON'BLE MR.MAHARAJ DIN,JUDL.MEMBER.

HON'BLE MR.MAHARAJ DIN,JUDL.MEMBER :

The applicant has moved this application under section 19 of the Administrative Tribunals Act 1985 seeking the relief that Inquiry Report dated 23.02.1985 and Impugned Order dated 21.08.1985 forfeiting ten years permanent service of the applicant be quashed. The applicant has also prayed that the

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Appellate Order dated 11.06.1987 and the order dated 10.02.1988 rejecting the revision petition be also set aside.

2. The applicant is working as Sub-Inspector Delhi Police. A departmental inquiry under section 21 of the Delhi Police Act 1978 was ordered against applicant as well as against ASI Dilbag Singh and Head Constable Om Prakash for gross mis-conduct while posted at Police Station, Krishna Nagar. The above mentioned Police Officials brought Fareed Abdullah from his residence Gali-Shimla, Chandni Chowk and detained him at the Police Station under sections 13/14.2.30 Dangerous Drugs Act. It is said that the applicant and two above named police officials demanded rupees 50,000/- from the applicant for his release. Fareed Abdullah ^{is} said to have agreed to pay rupees 20,000/- as a bribe to them. Fareed Abdullah sent for his friend Raees Uddin and requested to arrange rupees 20,000/- who, however, could arrange rupees 5,000/- and rupees 3,000/- were got

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arranged by one Rakesh Chandra and rupees 10,000/- were arranged by Abu Tahir on the request of Fareed Abdullah. Thus, the amount of rupees 18,000/- plus another sum of rupees 13,000/- with Fareed Abdullah, who on his request was taken to the shop of Pandit Sari Wala, Nai Sarak to pass the bribe to the police officials. Raees Uddin in the meantime approached the Anti Corruption Branch, Delhi Administration who organised a raid at the said shop, where the bribe money was planned to be passed-on by Fareed Abdullah to the police officials.

ASI Dilbag Singh and Head Constable Om Prakash who had gone to the shop of Pandit Sari Wala expressed that they would accept the money at a place near Yamuna Bridge, on way back to the police station, Krishna Nagar. So the Anti Corruption raid was flopped. ASI Dilbag Singh and Head Constable Om Prakash alongwith Fareed Abdullah left for the shop of Pandit Sari Wala without making entry of departure in the daily diary of police station, Krishna Nagar.

3. The departmental inquiry was ordered to be initiated against the applicant as well as the l/c.

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above named two police officials. The Inquiry Officer after having completed the departmental inquiry submitted his findings on 23.02.1985 to the disciplinary authority. The Inquiry Officer recommended for dismissal of the applicant and ASI Dilbag Singh from the Force. They were called upon to show cause ~~replies~~ as to why they should not be dismissed from the service. They both submitted their replies in response to show cause notices. The disciplinary authority after having considered the replies took a lenient view and awarded the punishment of forfeiture of ten years approved service of the applicant entailing reduction in their pay vide order dated 21.08.85. The applicant preferred an appeal as well as revision which were rejected by the authorities.

4. The respondents in their reply have denied the allegations of the applicant and have maintained that the order of punishment awarded to the applicant is just and proper.

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5. We have heard the learned counsel for the parties and have gone through the record of the case.

6. The applicant has assailed the order of punishment to be without jurisdiction. The applicant admittedly was working under the Administrative Control of Dy. Commissioner of Police (East District) Delhi when the aforesaid order to initiate the departmental inquiry was made. The Dy. Commissioner of Police (East District) Delhi by an order dated 17.01.1983 made an order to hold departmental inquiry against the applicant as well as ASI Dilbag Singh and Head Constable Om Prakash who were constituting the investigation team in the aforesaid case. In the meantime the applicant was transferred from east district, Delhi to Security Department of Delhi Police on 15.02.1983. The Inquiry Officer served the summary allegations on the applicant on 05.07.1983. On 05.07.1983 the applicant was serving under the disciplinary control of the Dy. Commissioner
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of Police Security. So it is argued on behalf of the applicant that On the basis of the findings of the Inquiry Officer punishment awarded by the Dy. Commissioner of Police (East District) Delhi is without jurisdiction. It is also said that initiation of departmental proceedings against the applicant is in contravention of Rule 14(4) of Delhi Police (Punishment and Appeal) Rules 1980. Sub Rule 4 reads as under :-

"The disciplinary action shall be initiated by the competent authority under whose disciplinary control the Police Officer concerned is working at the time of its decided to initiate disciplinary action".

The Dy. Commissioner of Police (East-Dist) Delhi ordered for departmental inquiry to be conducted against the applicant on 17.01.1983 and the applicant till then was admittedly working under him. So Dy. Commissioner of Police (East-District) Delhi decided to initiate the disciplinary action against the applicant when he was working under him and this action of the disciplinary authority is not in contravention of Rule 14(4) of Delhi Police (Punishment and Appeal)

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Rules 1980.

7. Further our attention was drawn towards Rule 5(III) of the Delhi Police (Promotion and Confirmation) Rules 1980 which provides as under:-

"No member of a subordinate rank who is under suspension or faces the departmental enquiry/criminal proceedings, shall be eligible for admission for training in departmental courses. Such case shall be decided on merit by departmental Promotion Committee after such proceedings are offered. The Departmental Enquiry shall be deemed to have been initiated after the summary of allegations has been served".

The provision made in this rule is not applicable to the facts of the present case because here we are concerned about awarding of punishment under Rule 14(4) of Delhi Police (Punishment and Appeal) Rules 1980 and the question of promotion and confirmation of the official is not involved. So the plea taken with reference to Rule 5(III) of the Delhi Police (Promotion and Confirmation) Rules 1980 by the applicant is mis-conceived.

8. The findings recorded by the Inquiry Officer (Annex.C) are also challenged before us.

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It has been argued that the proper discussion of the evidence has not been made by the Inquiry Officer before arriving at the conclusion and the report submitted by him is perverse. The Inquiry Officer has discussed the statements of the witnesses recorded by him at length and has recorded the reasons for arriving at the conclusion. So, the finding of the Inquiry Officer is neither arbitrary nor perverse as argued on behalf of the applicant.

9. It is pointed out that the copy of the complaint and the statements of the witnesses recorded by the Officers of the Anti Corruption Department was not supplied to the applicant. The applicant was served with summary of allegations and memo of evidence alongwith the list of the documents. He was further informed that a provisional list of documents proposed to be relied upon in respect of the allegations is enclosed and if, he so desires he could have inspected and took

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extracts of said documents. Further, if he desires to be given access to any other official record, other than specified in the enclosed list he should have submitted a list of all such documents within three days as would appear from Annexure A, but the applicant never applied for the supply of the copies of any document. Moreover, if the applicant was not supplied with the copies of relevant documents, he should have applied for the same but he never did so.

10. The learned counsel for the applicant has argued that there is a contradiction in the summary allegations served on the applicant and the charge framed against him. On receipt of letter from Anti-Corruption Branch, the summary of allegation was prepared and served on the applicant in which Rs. 40,000/- were mentioned but after recording the statement of Fareed Abdullah Rs. 50,000/- were said to have been demanded from him for his release and the matter was settled for Rs. 20,000/-. The statement of Fareed Abdullah is self-explanatory
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in this regard, that ultimately Rs. 20,000/- were settled to be paid as bribe. Therefore, it cannot be said that there was contradiction between the charge and summary of allegation as this was done after recording the statement of PWs.

11. The Tribunal however cannot sit as an appellate authority over the findings recorded by the inquiry officer. We have already discussed that a reasonable opportunity was given to the applicant to defend and the Inquiry Officer has not done any illegality or irregularity in conducting the inquiry against the applicant.

12. In view of the discussion made above we find no merit in the case of the applicant and it is hereby dismissed with no order as to costs.

MAHARAJ DIN
(MAHARAJ DIN)
Member (Judl.)

P.C.JAIN
(P.C.JAIN)
Member (Adm.)

*Proceeded by the undersigned
in open court.*
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21/1/1992