

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

N E W D E L H I

O.A. No. 947 of 1988
T.A. No.

199

DATE OF DECISION 30.1.82

Ashok Kumar	Petitioner
Shri G.D. Bhandari	Advocate for the Petitioner(s)
Union of India & Ors.	Respondent
Shri V.K. Garg	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J).

The Hon'ble Mr. I.P. Gupta, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Judgement of the Bench delivered by Hon'ble Shri
Justice Ram Pal Singh, Vice-Chairman (J).)

J U D G M E N T

The applicant was appointed as constable in Delhi Police on 1.9.1973. At the relevant time, he was in the Police Department, DAP, E Company III Bn, Kingways Camp, Delhi. He was sanctioned one day's casual leave for 3.7.86. According to the applicant, when he went on casual leave, he suddenly fell seriously ill and was confined to bed. He could not attend office to resume his duties. He sent a telegram on 7.7.86 intimating his condition and also doctor's advice. The respondents thereupon sent two letters dated 10.7.86 and 29.7.86 directing the applicant to resume duty. The applicant reported for duty on 14.11.86, but after keeping him waiting for a long time, the respondents informed the applicant that he was under suspension and shall be allowed to resume duty after the contemplated departmental enquiries. He was suspended by the order of the respondents dated 26.9.86. A departmental enquiry

was initiated against him under the provisions of the Delhi Police Act of 1978, but no intimation with regard to the fact that enquiry was sent to him as to when and where the enquiry is to be held. Ultimately, ex-parte proceedings were ordered which was served upon him on 10.4.87. The applicant pleaded not guilty and produced two defence witnesses in his support. According to the applicant, the Enquiry Officer who conducted the departmental enquiry was changed to the detriment of the provisions of the Rules. After receiving a reply to the show cause notice of the disciplinary authority, the applicant was directed to be dismissed from service by order dated 20/29.7.1987 (Annex. A-7). He, therefore, filed an appeal before the appellate authority against the order of dismissal from service, but the appeal was rejected by a non-speaking order (Annex. A-8). He has, therefore, filed this O.A. under Section 19 of the Administrative Tribunals Act of 1985, praying therein for the relief to set aside and quash the dismissal order (Annex. A-7) and also the appellate order (Annex. A-8). He has also prayed for back wages and allowances etc.

2. The respondents who appeared on notice controverted the facts contained in the O.A. and maintained that the applicant took part in the disciplinary proceeding from 10.4.87 and hence it was not ex-parte. They further maintained that the applicant also showed cause to the notice of the disciplinary authority. They have opposed the prayer of the applicant.

3. Shri G.D. Bhandari, counsel for the applicant, and Shri V.K. Garg, counsel for the respondents, were heard. Shri Bhandari has raised the following grounds for consideration:

(i) The Enquiry Officer who initially conducted the enquiry was changed without reason and without intimation to the applicant. He cited authorities in support of his contention that the Enquiry Officer conducting the enquiry can be changed only if the Officer has retired or transferred to other place. He has also contended that there was no order of the disciplinary authority for changing

the Enquiry Officer.

(ii) His second contention is that the appellate authority has dismissed the appeal when all the grounds were raised in the Memorandum of Appeal, by a non-speaking order. He has cited several authorities of this Tribunal and also of other High Courts.

These authorities need not detain us anymore because we are of the view that the appellate authority has abdicated its powers while passing the appellate order in this case. On perusal of the grounds of appeal, it appears that all these grounds were raised before the appellate authority. It was incumbent upon the appellate authority to apply its mind, examine the record minutely and then come to a finding as to whether the points raised in the grounds of appeal are tenable or not. A great responsibility rests upon the appellate authority while considering the appeal filed by the delinquent against whom the orders affecting his service and his life, have been passed by the disciplinary authority. While an appeal is filed by the delinquent challenging the conduct of the enquiry, raising points of contravention of the rules and also the findings recorded by the disciplinary authority in the Memorandum of Appeal, it is the duty of the appellate authority to go through them minutely and pass specific and cogent orders on the points raised. We find that the appellate authority has completely ignored these features and has not exercised the powers of appellate authority vested in it according to rules and established principles of law. We, therefore, quash the order passed by the appellate authority (Annex. A-8) and direct the appellate authority to pass appropriate orders with reasons on the grounds raised by the applicant in his Memorandum of Appeal. The appellate authority shall pass the orders within a period of four months from the date of the receipt of a copy of this order. The parties are directed to bear their own costs.

I. P. Gupta
(I.P. GUPTA)
MEMBER (A) 30/1/92

Concurred
Concurred 30.1.92
(RAM PAL SINGH)
VICE-CHAIRMAN (J)