

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1028/88

New Delhi this the 18th Day of November, 1993.

The Hon'ble Mr. J.P. Sharma, Member (J)
The Hon'ble Mr. B.K. Singh, Member (A)

Laxmi Chand,
Son of Shri Mani Ram,
Resident of Village and Post
Office Mandavli, Fazalpur,
Delhi-110 092.

....Petitioner

(By Advocate Shri G.D. Gupta)

Versus

Union of India, through

1. Delhi Administration, Chief
Secretary, Delhi-110 054.

2. Deputy Commissioner of
Police, Chief Secretary,
South District,
New Delhi.

...Respondents

(By Advocate Mrs. Meera Chhiber)

O R D E R

(Hon'ble Mr. J.P. Sharma)

When the applicant was employed as Sub Inspector Delhi Police, he was proceeded in a departmental enquiry under Section 21 of the Delhi Police Act and after observing the procedure laid down in the Delhi Police (Punishment and Appeal) Rules, 1980 a penalty was imposed dated 1.4.1987 of forfeiture of 3 years' approved service permanently entailing reduction in the pay (Annexure-A). The applicant filed an appeal to the Additional Commissioner of Police which was rejected by the order dated 14.7.1988.

In this application under Section 19 of the Administrative Tribunals Act, 1985 the applicant

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has prayed for setting aside the show cause notice dated 15.7.1986 proposing to impose penalty of forfeiture of 3 years' service permanently and the order of punishment dated 1.4.1987 and all consequential benefits like arrears of pay, allowance, seniority etc. to which he would have been entitled, had he not been punished as aforesaid. A notice was issued to the respondents to file the reply. The respondents contested the grant of the relief rebutting the contention raised in the application contending that the application is devoid of merit.

The facts of the case are that while the applicant was posted as Sub Inspector, a complaint was made against him by Shri Raghubar Dayal Devender Singh Lal Pyare and Kishan Lal alleging that the applicant had accepted Rs. 500/- as illegal gratification and extorted money from them by harassing the complainants. The then In-charge PP New Friends Colony, New Delhi, Vigilance Branch conducted an enquiry and the allegations were found to be substantiated. In view of this a regular departmental enquiry was directed by the Additional Commissioner of Police under 15(2) of the rules by the order dated 22.9.1984. Shri D.P. Verma, ACP, Delhi Cantt submitted the findings arrived at the conclusion that the charge has been proved against the applicant.

The charge against the applicant is as follows:

I, Durga Prasad, Assistant Commissioner of Police, Delhi Cantt. Sub-division, South Distt., New Delhi charge you, SI Laxmi Chand No. D-1168 as under:

While posted as I/C Police Post New Friends Colony you harassed S/Shri Raghbar Dayal, Ram Pyare, Krishan Lal and Devinder Singh, all residents of Bharat Nagar, New Delhi to extort money from them. You took Rs. 500/- from Raghbar Dayal and Rs. 1000/- from Ram Pyare as illegal gratification who were constructing shop and house respectively. The above act of you SI Laxmi Chand No. D/1168 amounts to gross misconduct unbecoming of police officer and renders you liable for punishment under Section 21 of the Delhi Police Act, 1978."

The disciplinary authority, DCP, South District issued a show cause notice and thereafter passed the impugned punishment order which was upheld.

We heard the learned counsel for both the parties at length and perused the record. The first contention of the learned counsel is that the summary of allegation, memorandum of evidence and list of evidence were given to the applicant after lapse of period of one year. The complaint was filed by Raghubar Dayal and three others

in the month of June 1984. Section 140 of the Delhi Police Act 1948 bars suits and prosecution against Police Officer or other persons for a wrong alleged to have been done by such police officers or other persons by an act done under colour of duty or authority or in excess of any such authority. Such prosecutions and suits shall not be undertaken if it is instituted more than 3 months after the date of act complained of and if instituted with the sanction of administrator within one year from the date of offence. We have considered this aspect. The case of the applicant does not fall under the provisions of Section 140 of the Delhi Police Act. The Act against which the applicant has been processed amounting to misconduct has not been performed in the discharge of duty. The complaint (Annexure 'D') is regarding harassment, with threats to implicate the complainants i.e. Raghbar Dayal and 3 others named in the complaint in false cases. It is also for extortion of money for which the complainants were asked to pay illegal gratification.

The learned counsel for the applicant also argued that the summary of allegations were vague. The summary of allegations are as follows:

It is alleged against SI Laxmi Chand No. D/1168 I/C Police Post, New Friends Colony that he harassed S/Shri Raghbar Dayal, Devinder Singh, Lal Pyre and Krishan Lal all residents ..

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of Bharat Nagar, New Delhi to extort money from them. He took Rs. 500/- from each as illegal gratification from Shri Raghbar Dayal and Lal Pyre who were coinstucting a shop and the house at their plots respectivel. The above act on the part of SI Laxmi Chand amounts to gross miscoinduct unbecoming of a police officer and renders him liable for Departmental action under Section 21 of the Delhi Police Act, 1978".

The misconduct alleged against SI Laxmi Chand is that he harassed the complainants named above and he took Rs. 500/- as illegal gratification from Shri Raghbar Dayal and Lal Pyre who were constructing house and house at their plot respect- ively. By no stretch of imagination it can be said that the applicant could not know the alleg- ations levelled against him. These summary of allegatioins were served on the applicant on 14.1.1985. While the complaint is of an earlier period though it is undated. On the basis of the above summary of allegations, the evidence of the witnesses were recorded by the EnquiryOfficer when the applicant did not plead guilty to the summary of allegations. The vagueness of the summary of allegations can be judged from the manner in which these have been served ~~on~~ the applicant. The applicant had submitted a list of 8 Defence Witnesses and he produced 4 of them before the enquiry Officer and exempted the rest. In his defence statement submitted to the Enquiry

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Officer he has stated that all the complainants are near relatives in as much as Raghubar Dayal Kishan Lal are real brothers and Charan Singh and Lal Pyare are their servant-cum-attendant and friends respectively. Thus, the applicant knew very well that there were allegations against him of harassing the complainant Raghubar Dayal and others for ulterior motive. The applicant has not been misled in his defence at all. The defence witnesses he has examined HC Pradeep Kumar, Suresh Kumar, son of Dev Karan, O.P. Yadav Inspector, PTS Jharodakalan, Jia Lal Sahney, SHO have stated regarding the character of the complainant and that they are in the habit of making such complaints earlier. It is, therefore, evident that the applicants have very well understood the allegations levelled against him by the complainants as well as stated in the summary of allegation on which the enquiry was conducted by the enquiry officer. Not only this after the prosecution witnesses were examined a definite charge was framed against the applicant by Assistant Commissioner of Police and that is already referred to in the earlier part of the order. This contention of the learned counsel that the charge is ambiguous has no bearing.

The next contention of the learned counsel is that the list of documents etc. were given to the applicant after a lapse of a period of one year by memo dated 18.12.1984. Here it may be recalled.....

that the statement of the witnesses were recorded after relevant documents had been furnished to the applicant. The applicant had cross examined the witnesses on behalf of the department on different dates much after the supply of the above documents. Late supply of the documents, therefore, did not prejudice the case of the applicant. During the enquiry proceedings the applicant did not make any complaint to the Enquiry Officer for the supply of any more documents or that any particular document relied by the prosecution is required by him in his defence be supplied to him. This contention, therefore cannot be accepted to have prejudiced the defence of the applicant.

The learned counsel has also assailed the finding of the Enquiry Officer on the ground that the findings are wholly perverse in as much as the same is not supported by legally permissible evidence and that the conclusion reached by the Enquiry Officer could not be reached by reasonable person on the basis of evidence adduced in the enquiry. The applicant had himself filed certain copies of the statements of PWs recorded by the Enquiry Officer. The Enquiry Officer in the last but one para had drawn the conclusion that the defence has given evidence that the prosecution witnesses are not of good character and generally under the influence of liquor, are in the habit

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of causing nuisance. They were also arrested on certain occasions and also convicted in some of them. The defence, therefore, adduced by the applicant is only to the effect that PWs examined in the enquiry are of week moral fibre and are interested ones. The Enquiry Officer categorically gave findings that charges levelled against the delinquent has not been rebutted. The evidences of the prosecution witnesses has established the charge against the applicant. Going through statement of the prosecution witnesses they are one and the same on the point that the applicant has been harassing the complainants Raghubar Dayal and Ram Pyare and extorted money from them under the threat of booking them in false cases. Merely because the witnesses are of week moral fibre would not discredit their testimony or make their statement incredible. Thus, the court cannot reappreciate the evidence of the witnesses examined in the departmental enquiry when there is already sufficient material to justify the conclusions reached by the Enquiry Officer. Thus, the findings of the Enquiry Officer cannot be faulted with.

The learned counsel for the applicant has also argued that the disciplinary authority has not given his own findings on each of the charges. The law is clear on the point that when the disciplinary authority agrees with the findings of the Enquiry Officer he need not give separate reasons or repeat the same reason once again. In case of IIT Vs Union

of India reported in 1991 SSC (L&S) P 1137 the Hon'ble Supreme Court has considered this particular aspect whether the disciplinary authority has to give his own reasoning in support of the charges having been established by the Enquiry Officer. It is held that when the disciplinary authority without reservation has accepted the findings of the Enquiry officer, it is not necessary for him again to discuss the findings reiterated the same findings and give the reasons for the findings arrived at. It is also established law that the principle of Natural justice cannot be given a natural expansion without reference to the administrative realities and other factors of the given case. The disciplinary authority issued a show cause notice to the delinquent and on that show cause notice the delinquent filed a reply and after considering the same passed by the order of punishment of forfeiture of 3 years service permanently. Thus, the order of the disciplinary authority also cannot be said to be in anyway infirm and against the rules. Merely because the Enquiry Officer has given findings in one para or that the disciplinary authority did not further analyse and appreciate the evidence of the witnesses examined before the Enquiry Officer would not in any way vitiate the findings given by the Enquiry Officer incorporated by the disciplinary authority.

The learned counsel for the applicant also argued that Ram Prasad was arrested on 7.6.1984 under Section 92, 93 and 97 of the Delhi Police Act and he was found causing nuisance under

the influence of alcohol at the public place and only after that the present complaint was made by the complainants against him. The applicant was at that time in-charge of police post, New Friends Colony. This contention cuts both ways. The case of the complainants have been that under the threat of implicating in false cases the applicant was extorting money from them and the contention of the applicant is that because of the aforesaid case of public nuisance challenged by the applicant a false complaint was made. This fact has already been gone into by the Enquiry Officer, the disciplinary authority and the appellate authority and this was not taken to be a motive for filing a complaint against the applicant. The Tribunal cannot give another finding on this contention.

The learned counsel for the applicant during the course of the arguments has laid great emphasis on the testimony of the defence ~~witnesses~~ witnesses examined by the applicant to rebut the prosecution allegations. He has referred to the testimony that the complainant has made the false complaint with the help of Shri Shiv Prasad, ASI. When the evidence led by the department has established that the applicant has harassed the complainant in order to extort money and also accepted Rs. 500/-, against this finding the testimony of the defence examined by the applicant has been duly considered by the Enquiry Officer

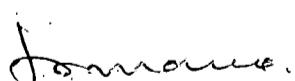
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and reviewed by the appellate authority, simply because the witnesses examined in defence have given a version that the prosecution witnesses are interested or are of weak moral fibre would not ~~outweigh~~ the defence version with that of the prosecution allegation against the applicant. The preponderance of the probabilities have to be judged in the facts and circumstances of the case and that has been rightly done by the Enquiry Officer. Thus, we have given a careful consideration to the various averments made by the learned counsel and considered the relevant law cited by the applicant laid down in the case of B.D. Gupta Vs. State of Haryana 1972 SLR P 845, AIR 1963 SC P 395 Bachhittar Singh Vs. State of Punjab and another, AIR 1970 SC P 1302 M/s. Mahabir Prasad Santosh Kumar Vs. State of UP and others, AIR 1964 SC P 506 The State of Mysore Vs. K. Manche Gowda . All these authorities cited by the learned counsel are on the point that the disciplinary authority as well as the appellate authority functions as quasi judicial authority and there should be a ~~reasoned and~~ well discussed order to show that there has been application of mind. All the relevant contentions raised by the learned counsel ~~have~~ ^{has} already been considered in the light of the law cited above. The applicant has already been heard personally by the competent authority before passing the final order. Initially an enquiry was conducted by Vigilance Branch, Police Headquarters on the complaint of Shri Raghubar Dayal and others and the

allegation^s of taking Rs. 500/- as illegal gratification from Shri Raghubar Dayal and Lal Pyare have been substantiated against the applicant. Only after this preliminary enquiry the Additional Commissioner of Police (Range) New Delhi passed order of departmental enquiry on 7.10.1984. Thus, the disciplinary authority has acted in a boinafide manner without any malice or bias against the applicant. The order passed by the appellate authority dated 14.7.1988 clearly goes to show that applicant was also heard in person. The appellate authority has observed that though the case merited dismissal in normal course but taking into consideration the other material on record the punishment awarded is fully justified. The contention of the learned counsel for the applicant that the points raised in the appeal were not referred to in the appellate order has no basis. The appellate order has considered all the relevant points and the ^{appellate} order should not be in itself a long ~~document~~ document like a judgement.

In view of the above facts and circumstances of the case, we find no merit in the application and the case is dismissed leaving the parties to bear their own costs.


(B.K. Singh)
Member(A)


(J.P. Sharma) (8.11.93)
Member(J)

Mittal