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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

OA No. 1055/88

New Delhi this the 5th day of November, 1993.

CORAM :

HON'BLE MR. J. P. SHARMA, MEMBER (A)
HON'BLE MR. B. K. SINGH, MEMBER (A)

Shri C.B. Singh
Son of Shri Ram Nain Singh,
Resident of Flat No.2,
Police Station Shahdra,
Delhi - 110032. ... Petitioner

By Advocate Shri G. D. Gupta

Vs

1. Delhi Administration
through its Chief Secretary,
5, Sham Nath Marg,
Delhi - 54.
2. The Commissioner of Police,
Police Headquarter,
Delhi.
3. The Addl. Commissioner of Police,
Delhi. ... Respondents

By Advocate Shri B. R. Prashar

O R D E R

(Delivered by Hon'ble Mr. J.P. Sharma, Member (J))

The applicant while posed as Inspector in DAP 3rd Battalion was served with a summary of allegations by the Memo dated 24.8.1984. The disciplinary enquiry was held under Section 21 of the Delhi Police Act, 1978 in accordance with the procedure prescribed under Delhi Police Punishment and Appeal Rules, 1980. The Enquiry Officer, Deputy Commissioner of Police, in the enquiry report dated 12.2.1986 held that the charges against the defaulter has been established without any shadow of doubt on which a showcause notice was issued by the Additional Commissioner of Police on 14.4.1986 and

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finally the disciplinary authority by the Order dated 11.8.1986 imposed upon him the penalty of forfeiture of two years approved service permanently entailing reduction in his pay from Rs. 810 to Rs. 750/- per month. The appeal against the same was rejected by the Appellate Authority by the Order dated 12.5.1987.

In this application filed on 25.5.1988 the applicant has challenged the enquiry proceedings as well as the punishment imposed upon him by the impugned orders and prayed for quashing of the aforesaid orders with a declaration to the effect that the applicant is entitled restoration of to pay of Rs. 810/- with all consequential benefits.

A notice was issued to the respondents who contested the application and in the reply stated that the applicant was dealt for a gross misconduct, remissness and negligence in the discharge of his official duties in as much as he while posted as SHO, Gandhi Nagar, recommended the case for grant of NPB Revolver licence to an under trial Shri Ratan Singh on 2.12.1980 and he did so without getting a report from MHC/R about the character and antecedents of said Shri Ratan Singh. The enquiry proceedings under Section 21 of the Delhi Police Act, 1978 were conducted according to the rules and the enquiry officer conducted the oral enquiry as aforesaid affording adequate opportunities to the applicant and thereafter gave his findings appreciating the evidence produced before him. The applicant has no case and he is

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not entitled to any relief. The applicant has also filed a rejoinder reiterating the grounds already taken in the Original Application.

We have heard the learned counsel of the parties at length and perused the record. The first ground taken is that the disciplinary authority did not apply mind to the evidence on record and merely agreed with the report of the Enquiry Officer. However, it is not so. The order passed by the disciplinary authority runs into 8 full scape pages and he has considered every aspect of the matter after scrutinising the record on the basis of the findings submitted by the enquiry officer Shri A.K. Seth. He has touched almost all the grounds taken by the delinquent in reply to the showcause notice dated 14.4.1986. Though the issue for consideration was only limited as to whether the applicant as Inspector posted in Gandhi Nagar Police Station has helped out of the way to one Shri Ratan Singh Gill to obtain an arms licence in spite of the fact that at the time of recommending for the grant of such licence he had not received the report of MHC (Record) which he himself has called for earlier. The stand which was taken by the delinquent was that this arms licence was subsequently suspended and Shri Ratan Singh Gill against that order of suspension of the arms licence filed a Writ Petition before Delhi High Court. The Delhi High Court by judgement dated 3.5.1984 quashed the order dated 14.12.1983 passed by the DCP suspending the licence of Shri Ratan Singh Gill. However, the liberty was given to the authorities to pursue the matter if evidence is available to justify an action under Section 17 of the Indian Arms Act, 1959. This order

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passed by the High Court in that W.P. has absolutely no bearing with the misconduct alleged against the applicant.

The next contention of the learned counsel for the applicant is that the required information was given by the licensee in the prescribed Form of application for an arms licence. The High Court on the basis of that held that the order for suspension of licence is illegal. In fact the High Court of Delhi in its order dated 3.5.1984 referred to the fact that no notice was given to licence which violated the order. The learned counsel for the applicant, however, emphasised that it was argued before High Court that Shri Rattan Singh Gill suppressed information regarding his prosecution in a case under Section 302 and 307 IPC. The High Court observed that there is no such column in the prescribed Form for arms licence where such an information has to be furnished. Only the information solicited in the form is whether the person have ever been convicted of an offence or not. In fact this order of the High Court does not help the applicant. The applicant has to furnish proper details about the person and character of an expirant for an arms licence. In fact he has also called for the report from MHC (Records) but subsequently he has made a recommendation without having received the report from MHC (Records).

The next argument of the learned counsel that the disciplinary authority has taken this extraneous facts into consideration has no basis. In para 8 of the order of punishment, the disciplinary authority observed that

during the personal hearing in order to satisfy whether antecedents verification report also requires the mentioning of details of criminal cases or proceedings pending or decided concerning the licensee, and in such circumstances he summoned a file from DPC (Licencing) of another arms licensee to find out the precedent regarding submission of recommendation of SHO/Inspector. This additional circumstances taken into account at the time of hearing cannot be said to be a divergence by the disciplinary authority or consideration of additional facts not revealed to the delinquent before the enquiry. In fact the summoned file of earlier licensee was seen in the presence of the applicant. The order of the disciplinary authority, therefore, cannot be faulted on the ground that it is devoid of reasons or that extraneous circumstances were considered in imposing the punishment.

The next ground is that enquiry officer has not held the applicant guilty of any of the article of charges. A perusal of the enquiry report in the concluding para 4 leaves no doubt that the defaulter inspector was found guilty of both the charges beyond doubt and this contention appears to have been inferred without any basis from the findings given by the enquiry officer with reference to Section 13 & 14 of the Indian Arms Act, 1959. The Enquiry Officer has considered the material evidence the statement of witnesses as well as the defence statement. He has also perused the application Form prescribed for grant of arms licence and also other documents submitted by the applicant and also considered the pendency of a case FIR 96 dated 1.2.1980 under

Section 27/54/59 Arms Act, 1959. This case was pending against Shri Rattan Singh Gill when the applicant had made a recommendation for grant of licence. The Enquiry Officer has given detailed reasons to arrive at the conclusion that the charges against the applicant has been established.

The other contention that in fact the DCP, the licencing authority, has to finally consider the case for grant of licence. If there was any deficiency in recommendation for the grant of licence, that should have been pointed out so it is lapse on the part of the authority sanctioning arms licence. This contention also has no basis. In fact the recommendation of the inspector who is incharge of the Police Station prevails with the licencing authority in the grant of arms licence. The Appellate Authority has also considered the matter in the right prospective and upheld the order of the disciplinary authority.

The Tribunal cannot assume the function of an Appellate Authority. The Tribunal has the scope limited to the extent of scrutinising the evidence and to find out whether the conclusion arrived at by the Enquiry Officer is justified, reasonable and cannot go to draw any other conclusion if possible from such an evidence. The Tribunal cannot reappriciate evidence and judge the whole issue. The standard required in the departmental enquiry for analysing and appreciating the rival contention of department and delinquent is totally different from that which are normally taken into account in civil or criminal cases. In departmental enquiry logical

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inferences and conclusions can be drawn on the basis of established facts from the oral or documentary evidence brought on record. In the present case the recommendation by the applicant was considered just and sufficient for the grant of licence to Shri Rattan Singh Gill who had been earlier tried in murder case and also in a number of other cases some of which were even pending at the the time of making recommendation for grant of licence. The inspector though called for the report from MHC (Records) and subsequently without waiting for the report substituting his own opinion made recommendation for the grant of licence which itself speak and shows that the applicant had adopted abnormal manner which materially differed from the prevalent practice of giving full verification regarding antecedents personal or professional of the person asking for arms licence. The Disciplinary Authority did not take any new fact into account but only justified the findings of the Enquiry Officer by showing to the applicant as to what has been done in the past in similar other cases earlier by the inspector, In charge of the Police Station who recommended for the grant of licence.

The learned counsel for the applicant has also referred to a number of authorities regarding consideration of extraneous matters during the course of the enquiry and relied on State of Andhra Pradesh Vs. S.M. Nizammudin Report in 1976 (IV) SCC P. 745. That was the case where some secret report was relied upon at the back of the delinquent. Here it is not so. The learned counsel has also on the same point referred to

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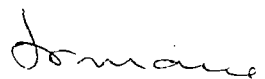
the authority of the Gujarat High Court in 1991 SLR Vol (7) P 687 TS Rabari Vs. Government of Gujarat and anothers.

The learned counsel has also taken to other authorities on the points that the findings has not been given by the Enquiry Officer on the charge framed against the delinquent and the reference has been made to AIR 1963 SC P 1914 Sur Enamel and Stamping Works Ltd. Vs. the Workmen, 1972 SC AIR page 2535 State of Assam Vs. Mohan Chandra Kalita & Anr. 1967 SLR P 521 1991 (V) SLR P 444 Matadin Vs. Electricity Board. All these authorities do not apply to the case of the Applicant in as much as the charge is on definite, plain, unambiguous and the findings in the last para by the Enquiry Officer is clear that the charges are established against the applicant. The learned counsel by way of minute dissection by a microscopic manner referred to the charge that it does not refer to not giving full details of the antecedents of the persons who has applied for the grants of licence. In fact the charge normally means a statement giving the accusation against the persons charged with so that he may know what he has to face. This has been fully complied in this case. The orders passed by the punishing authorities need no interference.

We, therefore, find that the application is devoid of merits and is dismissed leaving the parties to bear their own costs.


(B.K. Singh)

Member(A)


(J.P. Sharma)

Member(J)

Mittal