

(11)

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.1064 of 1988

8th day of November, 1993.

Shri J.P. Sharma, Member (Judl.)

Shri B.K. Singh, Member (A)

Shri Dilbagh Singh
s/o Shri Ram Gopal
r/o 23, House No.8,
Indira Vikas Colony,
Kingsway Camp, Delhi.

Applicant

By Advocate Shri P.P. Khurana.

Versus

1. Commissioner of Police,
Indraprastha Estate,
New Delhi.

Deputy Commissioner of Police,
Police Control Room, Delhi

Respondents

By Advocate Shri M.K. Giri.

O R D E R

Shri J.P. Sharma

At the relevant time, the applicant was posted as Head Constable and was on duty on 4/5 July, 1985 in the Police Control Room Van in the area of Kingsway Camp. He has been served with a summary of allegations that on the relevant date, when checked by the Traffic Inspector, Shri Ram Karan, he was found, along with ASI Bir Singh, indulging in unauthorised traffic checking at Ring Road, near Nirankari Colony and thereby stopped an MV No.UTG-9495 near Nirankari Colony with some ulterior motive. Shri Nathu Singh, the Truck Driver, Traffic Inspector, Shri Ram Karan, Smt. Shakuntala Khokar, S.I. Chinta Singh, were named as witnesses in the annexure supplied with the summary of allegations. These witnesses

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were examined by the Enquiry Officer, Shri Bhagwant Singh, ACP, who framed charge-sheet against the applicant and also ASI Bir Singh, "You were found doing an unauthorised traffic checking at Ring Road near Nirankari Colony with some ulterior motive as you had stopped an AMMV-UTG 9495 and were checking the papers from its driver. Nathu Singh, son of Shri Hans Raj, r/o 5253, Railway Road, Hapur. You had also threatened the said driver to show the papers, otherwise he could be challaned."

2. Shri Bhagwant Singh, ACP, submitted the report to the disciplinary authority, D.C.P., Control Room. In the finding arrived at by the Enquiry Officer, there was a finding that there is no evidence against the ASI, Bir Singh, as he, in fact, called the Head Constable, Dilbagh Singh, the applicant, to let the truck go and, therefore, recommended that the ASI be exonerated. The disciplinary authority issued showcause notice to both the charged officers after considering their reply to the said show-cause notice, which passed the order of punishment of forfeiture of one year's approved service temporarily of the applicant and also of ASI, Bir Singh. The applicant preferred an appeal against the same and the appellate authority considered the appeal along with that of ASI, Bir Singh and quashed the punishment and remanded the matter again to DCP who for personal hearing passed fresh orders by the order dated 28.4.1987. After remand, the D.C.P., subsequent to giving an opportunity to the charged officers, reduced the quantum of punishment to stoppage of increment temporarily for a period of one year. An appeal against this order

was rejected by the Addl. Commissioner of Police by the order dated 19.4.1988.

3. The applicant assailed the order of imposing punishment by the disciplinary authority by the order dated 13.8.1987 and the order of rejection of appeal by the order dated 19.4.1988. Here, it may be stated that ASI, Bir Singh, also filed an appeal against the aforesaid order of punishment (OA-1078/88) which was decided by the order dated 24.9.1988 by the Principal Bench of the Tribunal, by which the punishment passed against the petitioner of that case, ASI Bir Singh, was quashed.

4. The learned counsel for the applicant contended that the charge is vague inasmuch as the word 'ulterior motive' has been taken to mean an act of accepting illegal remuneration which hasnot been alleged in the summary of allegations, nor deposed to any of the witnesses of the department. It is further contended that the applicant in a bona fide manner, discharged duties according to the Delhi Police Act, 1978 and Section 59(a) and Section 60(n) and (o), authorise a Police Officer in discharge of the duties to prevent nuisance and also control the traffic on the streets, etc. It is further contended that the disciplinary authority, in the order dated 13.8.1987, did not apply his mind at all. The order of remand in appeal dated 28.4.1987, quashed the earlier order of punishment and directed the personal hearing to the applicant as well as to ASI, Bir Singh. What transpired in that hearing is not specifically narrated in the said impugned order and only it is mentioned that the punishment is reduced to stoppage of one year's increment.

5. The learned counsel for the respondents, however, placing reliance on the authority of Union of India Vs. Parma Nand, 1989 (2) SCC 177, argued that the Tribunal has limited scope of interference and cannot reappreciate the evidence even though the finding arrived at by the Enquiry Officer may not be utterly perverse.

6. Firstly, we are on the legal issue that when ASI, Bir Singh, who was having a joint enquiry with the applicant has already been exonerated by a judicial review by the Division Bench, as stated above, on the same facts and circumstances, the applicant cannot be held guilty. The learned counsel for the respondents, however, distinguished the case of ASI, Bir Singh, on the ground that even though the Enquiry Officer has recommended to the disciplinary authority that he be exonerated and as such, charges against ASI, Bir Singh, were not established.


7. Even otherwise also, the learned counsel for the applicant has referred to certain statutory law laid down under the Delhi Police Act, where a Police Officer on duty can prevent certain nuisance and control the traffic. PW1, Shri Nathu Singh, who was the Truck Driver, admitted that two persons were sitting in the truck in the tool box, which is not permissible under the traffic rules. Even if the truck was stopped by the applicant, that will not tantamount to mala fide intention on his part in the discharge of his duties. The learned counsel has rightly referred to Sections 59 and 60 of the Delhi Police Act, 1978. There is also a circular issued by the Police Commissioner in this regard. But that is not readily available in hand but has come to the

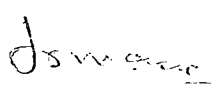
notice in other cases where a Police Officer on duty can check the traffic control in order to inculcate discipline among the persons to observe the traffic rules.

8. Further, we find that the order passed by the disciplinary authority dated 13.8.1987 cannot be said to be in order in the eyes of law. After remand in appeal by the order dated 28.4.1987, the disciplinary authority should have given reasons of coming to a conclusion in passing the order of punishment.

9. In view of the above facts and circumstances, the impugned order of punishment cannot be allowed to stand.

10. The application is allowed. The impugned order of punishment dated 13.8.1987 and that of the appellate authority of 19.4.1988, are quashed and set aside. The applicant shall be allowed to draw the increment if that has been stopped by giving effect to the punishment order and will get all the consequential benefits of his pay, allowances, promotion as well as seniority.


(B.K. Singh)
Member(A)


(J.P. Sharma)
Member(J) 11/11/88

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