

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.1067/88

Dated: 5.10.1993

Tikam Chand

Applicant

Vs.

Union of India, M/O Home Affairs  
and Ors.

Respondents

None for the Applicant  
Shri Kamal Chaudhary Proxy for Shri Madan Grewal  
Counsel for the Respondents.

CORAM

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

JUDGMENT (ORAL)

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

The applicant at the time of filing this application was working as Sub Inspector, Delhi Police. A summary of allegations was served on the applicant that while he was posted as SI along with Constable Mohan Lal in the year 1979 at PS R.K. Puram, he visited the shop at Mochigaon with ulterior motive and manhandled one Gopal Singh Rawat and Gauri Shankar instead of taking any legal action for any encroachment and for this he was asked to explain. Departmental enquiry was proceeded against him under Section 21 of the Delhi Police Act. After examining the witnesses the Inquiry Officer appreciated the evidence of Gauri Shankar and other defence witnesses, gave his findings that the charge of manhandling Gauri Shankar and Gopal Singh Rawat on 12.7.79 against the applicant stands proved beyond doubt and exonerated the applicant regarding other portions of the charges. A show-cause notice was therefore served on the applicant by Deputy Commissioner on 26.6.85. The applicant submitted his reply and the Disciplinary Authority, DCP, by the

order dated 17.9.85 passed the order imposing the punishment of forfeiture of one year's approved service permanently and reduction in his pay-scale from Rs.530/- per month to Rs.515.00 per month with immediate effect. The appeal of the applicant against this order was dismissed by the Additional CP by order dated 10.6.86. The revision preferred by the applicant to the Commissioner of Police was also rejected by the order dated 10.6.87. The applicant has challenged all these orders of punishment and prayed for grant of relief that the order of punishment be quashed and any other relief as deemed fit in the circumstances of the case be granted.

2. Notice was issued to the respondents to file their reply opposing the grant of relief. It is stated that earlier departmental inquiry was completed by Shri O.P. Malhotra and on the basis of findings given by the Enquiry Officer that the charge stands proved that Disciplinary Authority passed orders for removal from service w.e.f. June 8, 1981. On appeal the punishment of removal was modified by reducing the applicant from the rank of SI to ASI. The applicant further made submission for revision and the Commissioner of Police by the order dated January 2, 1984 while quashing the punishment orders remanded the inquiry to be proceeded from the stage of cross examination of Rajesh Kumar. Thus the earlier punishment of demotion was set aside and the inquiry commenced afresh by Shri Avinash Chandra, ACP, Lajpat Nagar. On the basis of findings given by ACP above order of reduction in pay-scale was passed which was upheld by the higher authorities on the appeal/revision preferred by the applicant. It is stated that the applicant has been given due opportunity in the disciplinary proceedings and he has no case.

3. Shri A.S. Grewal is the counsel for the applicant but he is not present today. On 30th September 1993 Mr. Grewal was present and sought for time and on his request the case was adjourned to October 4, 1993 when it was on board. Today none is present on behalf of the applicant. The departmental representative along with proxy counsel for respondent, Shri Madan Gera are present. During the course of arguments it has been disclosed that the applicant has also been compulsorily retired in September 1990.

4. Since this is an old case we have perused the pleadings and heard the learned counsel for the respondents at length. The grounds taken by the applicant in the original application have been considered by us. The first ground is that before initiating disciplinary proceedings no preliminary inquiry was held by way of filing criminal case or only initiating departmental inquiry under Section 21 of the Delhi Police Act 1978. This ground ofcourse has no basis because the misconduct as alleged is of 1979 and at that time no inquiry was undertaken when it was decided to start proceedings departmentally against the applicant for the alleged misconduct of manhandling Gauri Shankar in Village Mochigaon in the year 1979.

5. The other ground taken by the applicant is that the applicant's case was not sent to D.M.Delhi by S.P.South District and reliance was placed on the Punjab Police Rules where Rule 16 (8) (i) (b) where the requirement of sending the report to D.M. is mentioned. Firstly those rules have no relevance now in view of Section 149 of Delhi Police Act which is repealed by Delhi Police Act of 1961. The Delhi Police (Punishment & Appeal) Rules 1980 are the statutory rules and

contain provisions for the procedure to be adopted in Departmental Inquiry initiated under Section 21 of the Delhi Police Act 1978. Thus this also has no force. The third ground taken by the applicant is that the revision was accepted by the Commissioner of Police against earlier order of punishment of removal from service passed by the Disciplinary Authority and of reduction in rank from SI to ASI, in revision it was ordered to proceed de novo in the departmental inquiry against the applicant. The averment in the ground is that the whole proceedings should have been started afresh from the stage of service of summary of allegations. We have perused order passed by Commissioner of Police dated January 2, 1984 and a portion of the extract of the same is reproduced in the ground. This order does not show that the inquiry has to commence from the initial stage of serving summary of allegations. This ground has therefore no basis.

6. The other ground taken by the applicant is that the disciplinary authority has exonerated the applicant with regard to assault on Gopal Singh Rawat and only gave the findings that the charge against the applicant of manhandling Gauri Shankar has been established. The charge against the applicant has been that he along with Constable Mohan Lald threatened the shopkeepers of Mochigaon to challan them for opening their shops on public land and both of them manhandled Gopal Singh Rawat and Gauri Shankar. It is also said in the charge that the applicant did so for some ulterior motive of extorting money from the shopkeepers. Thus the applicant has not been completely exonerated by the inquiry officer, ACP, Lajpat Nagar and in such a situation the Disciplinary Authority after issuing show-cause notice according to the report and findings of the inquiry officer passed the punishment by the impugned order of September

1985. Thus this is not a case where charge does not stand established but a case where the charge has been proved beyond doubt.

7. It is further taken as a ground that the said Gauri Shankar has also given his statement in the proceedings before the Inquiry Officer that he does not want any action on his complaint against the applicant. The inquiry officer has appreciated the testimony of the witnesses examined by the administration and those examined in defence by the applicant. This Bench cannot appreciate the evidence. This is not a case of 'no evidence' when a number of witnesses have been examined on the fact in issue on the basis of which the inquiry officer has reached a conclusion that the charge against the applicant regarding manhandling Gauri Shankar has been established. Thus this ground also does not make out any case.

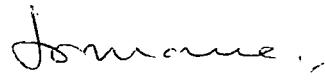
8. It has also been averred that the punishment is a farce and is contrary to statutory provisions contained in Section 21 of Delhi Police Act 1978. We do not find any arbitrary or wrong exercise of power by the disciplinary authority in passing the said punishment order. One of the punishments prescribed is forfeiture of the approved service i.e. this is the case of applicant where one year's approved service has been forfeited reducing his pay from Rs.530/- per month to Rs.515/- per month with immediate effect. In view of the facts we do not find that the said ground has any force.

9. We have gone through the various annexures filed by the applicant along with the application including the Memorandum. The Appellate Authority as well as the Revision

Athority have also considered the findings of the Inquiry Officer and the order of Disciplinary Authority imposing the punishment of forfeiture of one year permanent service. The order of the Appellate Authority and the Revision Authority are speaking orders giving reasons for action on the appeal and revision filed by the applicant against the order of the Disciplinary Authority. We find the application is devoid of any meerit and is therefore dismissed leaving the parties to bear their own costs.

  
( B.K. Singh )

Member (A)

  
( J.P. Sharma ) S-10-93

Member (J)

V p c

051093