



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 2030/2020

This the 10th day of December, 2020

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

S.I (Store) Devender Gupta,
2101-D (PIS No. 22000
s/o Late Dr. Ram Niwas Gupta,
aged 59 years,
posted in Office of Deputy Commissioner of Police,
Operation and Communication,
Shalimar Bagh,
Delhi – 110 088.Applicant

(By Advocate: Sh. Aseem Mehrotra)

VERSUS

- 1) Commissioner of Police,
Through Special Commissioner of Police,
Operation and Communication,
Shalimar Bagh,
Delhi- 110 088.

- 2) Deputy Commissioner of Police,
Operation and Communication,
Shalimar Bagh,
Delhi – 110 088. Respondents

(By Advocate: Ms. Esha Mazumdar)

ORDER (Oral)



Mr. Justice L. Narasimha Reddy:

Rarely, we come across an employee of such overreach as does the applicant, that too, in a disciplined establishment like the Delhi Police, and the slackness on the part of the administration in handling the disciplinary matter.

2. The applicant is a Sub-Inspector in Delhi Police. Disciplinary proceedings were initiated against him alleging that he misbehaved in the office on 02.02.1998. A charge memo was served upon him and thereafter disciplinary inquiry was conducted. That led to passing of an order on 22.7.1999, dismissing him from service. The appeal preferred against that was rejected. Challenging the order of dismissal, as affirmed by the appeal, the applicant filed OA No. 2151/2004. That was disposed of on 18.07.2005, observing that the past conduct of the applicant was not taken into account, in the context of imposition of punishment. Reference was made to sub-rule (xi) to rule 16 of the Delhi Police (Punishment and Appeal) Rules, 1960. The order of punishment was set aside, directing inter alia, that the applicant shall be continued under suspension till the disciplinary authority passes an order, taking into account, the said provision. However, the respondents have reinstated the



applicant on 12.01.2006. Thereafter, an order of dismissal was passed on 24.02.2006.

3. The applicant filed OA No. 1907/2009 challenging the order dated 24.02.2006. The order of dismissal was set aside on the ground that the inquiry was conducted ex-parte. The applicant was reinstated for the second time on 08.10.2010. Thereafter, the applicant came forward with the plea of voluntary retirement. That however was not accepted stating that the applicant was not co-operating in the inquiry, and an order was passed on 13.07.2020 stating that the inquiry was conducted to a substantial extent, but the applicant did not co-operate. It was stated that the applicant can participate in the proceedings but without any right to raise an objection as to the proceedings that have already taken place. The applicant made representation with a request to recall the order dated 13.07.2020. That was rejected on 08.10.2020. A notice was issued to the applicant on 06.11.2020 requiring him to appear on 11.11.2020. This OA is filed challenging two orders and the aforesaid notice served to him.

4. The applicant contends that he was not given an opportunity to participate in the proceedings and the valuable



rights conferred upon him under the relevant rules were violated.

5. We heard Sh. Aseem Mehrotra, learned counsel for the applicant and Ms. Esha Mazumdar, learned counsel for the respondents, at the stage of admission.

6. An order of dismissal was passed against the applicant after conducting a detailed inquiry. In OA No. 2151/2004, this Tribunal has set aside the order of punishment only by taking into account the sub-rule (xi) to rule 16. The relevant portion of the order reads as under:

“4. Without venturing into the merits of the matter which is unnecessary for the present and regarding which we are also not expressing any opinion, it has been contended that the said orders have been passed violating sub-rule (xi) to rule 16 of Delhi Police (Punishment and Appeal) Rules. The said Rules reads:

“16. (xi) if it is considered necessary to award a severe punishment to the defaulting officer by taking into consideration his previous bad record, in which case the previous bad record shall form the basis of a definite charge against him and he shall be given opportunity to defend himself as required by rules.”

7. Except that the disciplinary authority was directed to take into account, the past conduct of the applicant in the context of deciding punishment, the Tribunal did not interfere with the findings of the Inquiry Officer, much less the proceedings at



any early stage. A clear direction was issued to continue the applicant under suspension, till a fresh order is passed. However, for reasons best known to them, the respondents have reinstated the applicant on 12.01.2006. Thereafter, the order of punishment was passed on 24.02.2006 dismissing him from service. The principal ground urged in the subsequent OA No. 1907/2009 was about the violation of the principles of natural justice in the inquiry. It is just un-understandable as to how the respondents did not inform the Tribunal that the necessity to conduct fresh inquiry did not arise in the light of the order passed in OA No. 2151/2004. The order of dismissal was set aside and once again the matter was left open.

8. Having tasted the blood of loopholes in the administration, the applicant, this time, has started avoiding to appear in the proceedings. The efforts made by them and the manner in which the applicant has avoided the inquiry proceedings, is clearly evident from order dated 13.07.2020. It reads as under:

“Whereas, it is submitted by Sh. Anil Kumar, ACP/Comm. (EO of the DE) that SI (Store) Devender Kumar, No. 2101/D (PIS No. 23880005) is not co-operating in the DE initiated against him vide this office order No. 1986-2050/HAP-DCP/Comm. dated 08.05.1998 and re-opened vide this office order No. 341-70/HAP (P-I)/O&C, dated 13.02.2020. The SI was called to attend the DE proceeding several times by the EO, but he did not turn up. SI (Store) Devender Kumar, No. 2101/D could not be found available at any of the residential address at Delhi and at



his permanent address. The necessary documents (DE order, Summary of allegation, list of PWs and List of documents) have been pasted at the local addresses of the SI in Delhi and same copies have also been sent to him by post at his permanent address. The DE being delayed unnecessarily due to his negligence & non co-operation in the proceeding and adopting of dilatory tactics.

And whereas the act of SI (Store) Devender Kumar, No.2101/D is evading himself from DE proceedings pending against him without due course attracts the provisions of rules (18) of Delhi Police (Punishment & Appeal) rules 1980.

And now therefore, I, S.K. Singh, DCP/O&C under the provisions of said rules order that the proceeding against SI (Store) Devender Kumar, No.2101/D be processed ex-parte. Provided further that if the delinquent officer subsequently appears or wants to take part in the disciplinary proceedings at any stage during the course of proceedings, he shall be permitted to do so. He shall however, not be entitled to claim denovo proceedings or to recall for cross examination any witness, whose evidence has already been recorded. He shall be entitled to the inspection of the departmental file and to take notes of the proceedings, which have already place in his absence.

The E.O. shall also submit the weekly progress to DE to this office on every Friday.”

9. This only shows the misdirection in which the entire proceedings have progressed deviating from the adjudication which took place in OA No. 2151/2004.

10. No exceptions can be taken to the orders, impugned in the OA. The administration will be well advised to fix the responsibility on the persons who created such an unfortunate situation in the disciplined force. The amount of time spent



and the energy wasted on this issue can easily be imagined.

The Commissioner of Police shall bestow his personal attention to the entire issue and ensure that appropriate steps are taken in accordance with law.

11. We do not find any merit in the OA and the same is accordingly dismissed.

There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/lg/ns/akshaya/sd