



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

O.A. No. 605/2018

This the 16th day of December, 2020

(Through Video Conferencing)

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

Jaiveer Singh,
HC No. 353/NE,
S/o Late Shri Satya Pal Singh,
R/o Quarter No. 29, 2nd Type,
Police Station Jagatpuri,
New Delhi – 110021.

... Applicant

(Mr. Shariq Iqbal, Advocate)

Versus

1. Commissioner of Police,
Delhi Police Headquarters,
I.T.O. Delhi – 110002.
2. Ministry of Home Affairs,
North Block, Central Secretariat,
New Delhi – 110001.

... Respondents

(Mr. Gyanendra Singh, Advocate)

ORDER (Oral)

Mohd. Jamshed, Member (A):

The applicant is working as Constable in Delhi Police since 1982. On 10.08.2016, the applicant was placed under suspension on account of indiscipline and insubordination. The respondents ordered a departmental enquiry on 22.08.2016. Vide Inquiry Officer's report dated 13.02.2017, the charge was 'partly proved'. Vide order dated 13.04.2017, the applicant was awarded the punishment of withholding of one increment temporarily. The period of suspension from 10.08.2016 to 07.09.2016 was also decided to be treated as period 'not spent on duty'. Against this order, the applicant preferred an appeal which was rejected by the Appellate Authority vide order dated 24.11.2017.

2. The contention of the applicant was that on 16.07.2016, when he was on duty, he could not perform the task assigned by his Inspector In charge as he was not feeling well. This aspect has not been considered by the Inquiry Officer. It is submitted that the punishment has been imposed by the Disciplinary Authority without application of mind and the punishment is grossly in excess of the charges levelled. His appeal was also subsequently rejected. The applicant is aggrieved with the orders passed by the



Disciplinary and the Appellate Authority and has filed the present OA seeking relief in terms of directions to the respondents to set aside the punishment imposed and to award him the consequential relief. It is also prayed that his name be removed from the Secret List.



3. The respondents have filed a counter affidavit opposing the OA indicating that the Competent Authority has passed the impugned order duly taking into account all the relevant facts following the principles of Natural Justice and the applicant had been extended all opportunities in accordance with law during the inquiry. Insubordination and indiscipline is viewed very seriously in the uniformed forces and, therefore, the punishment awarded is also commensurate with the charges. It is also submitted that as per the administrative policy, the name of the applicant has been included in the Secret List for a period of three years.

4. Rejoinder has been filed by the applicant reiterating the pleadings contained in the OA.

5. We heard Mr. Shariq Iqbal, learned counsel for the applicant and Mr. Gyanendra Singh, learned counsel for the respondents.

6. It was alleged by the Inspector In Charge of Police Station, GTB Enclave, Delhi that on 15.07.2016, that the



applicant disobeyed his instructions and also entered into unnecessary arguments. On 16.07.2016 also, he did not attend to the assigned duty and later on refused to help the other Head Constable despite instructions and entered into unnecessary arguments with the SHO and the ACP. These acts on the part of the applicant were found to be of gross misconduct, negligence and carelessness in discharge of his duties under provisions of Delhi Police (Punishment and Appeal) Rules, 1980. He was accordingly placed under suspension vide order dated 10.08.2016. Subsequently, on the recommendations of the Suspension Review Committee, the suspension of the applicant was revoked w.e.f. 08.09.2016. On the allegations of insubordination and indiscipline, a disciplinary inquiry was initiated against him. The Inquiry Officer concluded that the charge of disobeying the instructions of the Senior Officers and Misbehaviour and unnecessary argument with SHO and ACP have been 'proved' beyond a shadow of reasonable doubt, however, the charge that he abetted others not to help was 'not proved'.

7. The applicant was provided all opportunities for defending himself and for submitting his written submissions. The Disciplinary Authority vide order dated 13.04.2017 took into account the findings of the Inquiry Officer and representation of the applicant and awarded the



punishment of withholding of one increment temporarily for a period of one year and his suspension period from 10.08.2016 to 07.09.2016 was also treated as period 'not spent on duty' for all intents and purposes. The applicant submitted a representation against the order of the Disciplinary Authority which was rejected by the Appellate Authority through a detailed speaking order dated 24.11.2017. The applicant has also sought relief from the Tribunal with regard to his name having been included in the Secret List. The Competent Authority vide order dated 02.06.2017 had advised that his name has been removed from the agreed list w.e.f. 13.04.2017 and the same has been put in the Secret List w.e.f. 13.04.2017 in view of the final orders on the departmental inquiry.

8. Inclusion of the name in the Secret List is not part of disciplinary Proceedings and orders. This is an exercise conducted by the Departments as per policy. As is obvious the bearing of the applicant's name in the Secret List was up to 13.04.2020, subject to revision thereafter. It has been established that the applicant has indulged in insubordination and indiscipline and being a member of the uniformed force, the same is considered to be a serious charge. It is obvious that the acts on part of the applicant on

16.07.2017 were of serious nature and, therefore, he was also placed under suspension subsequently on 10.08.2016.

The suspension of the applicant was revoked and the charge sheet was issued. It is evident that during the departmental inquiry the applicant was accorded all opportunities in accordance with law. The major charge of insubordination and indiscipline was clearly established in the inquiry for which the disciplinary authority passed the impugned order.

His representation was also considered and rejected by the Appellate Authority by passing a detailed and speaking order.

It is established law that the Tribunals or Courts cannot act as an Appellate Authority. We do not find any illegality or infirmity in the disciplinary proceedings and also the impugned orders of punishment and appeal in this case.

9. Therefore, we are of the view that there is no merit in the present OA and the same is, accordingly, dismissed.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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