

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

Regn. No. OA 372/86

Date of Decision: 1.5.87

Shri Harbir Singh

...Applicant

Versus

Union of India & Others

...Respondents

For Applicant: Shri B.T. Singh, Advocate

For Respondents: Shri B.R. Prasher, Advocate

CORAM: HON'BLE MR. G.Sreedharan Nair, Judicial Member
HON'BLE MR. V.S. Bhir, Administrative Member

JUDGMENT:

This application has been filed under Section 19 of the Administrative Tribunals Act.

The applicant as a Head Constable was posted as MHC(M) in Police Station Paharganj in May 1980. Certain sealed parcels with the seal of L.S.B, which allegedly contained Kirpans, were seized by Sub-Inspector Lakhvinder Singh in Case No.F.I.R.1011 dated 20.6.78 under Section 307/34 IPC and entrusted to him for safe custody being case property. It was stated that the above case property entrusted to the applicant was not handed over by him to his successor upon his being transferred out and it was instead shown as deposited with the District Nazarat (Judicial Malkhana) in its Register No.19, whereas in fact it was not found deposited with the Nazarat at Tis Hazari Courts, Delhi. It was also alleged that the applicant had obtained orders regarding disposal of the case

property from the court of Mr. Ajit Bhariok, Metropolitan Magistrate by misrepresenting that the said case was under Section 324/34 IPC while the case in which the property had been entrusted to the applicant was under Section 307/34 IPC. As a result of the above act of the applicant, the case property could not be produced during trial in the court. Departmental action under Section 24 of the Delhi Police Act, 1978 was initiated against the applicant for the loss/misappropriation or incorrect disposal of the said case property and misrepresentation of facts to the Metropolitan Magistrate for obtaining his orders for its disposal, which amounted to gross misconduct, negligence or carelessness. The departmental inquiry which was conducted by the Inspector, Special Staff, Central District, Delhi came to the conclusion that while no oblique motive can be attributed on the part of the defaulter, but he seems to have attempted in vain to make the loss of the property goods which seems to have been misplaced somewhere and since he was to hand over the charge to his successor, he obtained the orders of its disposal by misrepresenting the case to be under Section 324/34 IPC. Thus the charge framed against him is proved. The Additional Deputy Commissioner of Police, Central District, Delhi tentatively agreeing with the findings of the Inquiry Officer issued a show cause notice to the applicant why he may not be awarded punishment of forfeiture of two years accrued service temporarily for a period of two years entailing proportionate reduction in pay. After examining the reply of the applicant to the show cause notice, the Additional Commissioner of Police awarded the punishment of forfeiture of his two years accrued service temporarily for a period of

by [Signature]

two years entailing proportionate reduction in his pay. on 29.11.84.

The applicant appealed against the above order of the Additional Commissioner of Police and the appellate authority gave a speaking order on 28.3.85 rejecting the appeal as he found that the applicant had acted in a very negligent and careless manner for which he deserved severe punishment. The revision petition of the applicant submitted to the Commissioner of Police was also disposed of with a speaking order by the Commissioner of Police on 25.3.86 who observed that the negligence of the applicant was definite, which he committed by depositing the dagger with District Nazir Malkhana by misrepresenting the fact, when the case relating to the dagger in question was pending trial in the court. The Commissioner of Police concluded by stating that the applicant was found extremely negligent and careless and the punishment awarded is commensurate with the gravity of the misconduct and hence, he rejected the revision petition.

The learned counsel for the applicant argued that the punishment awarded in this case is disproportionate to the offence and particularly emphasised that the Inquiry Officer had observed that no oblique motive can be attributed to the applicant in this case.

The learned counsel for the respondents stated that the proceedings of the departmental inquiry were carried out in conformity with the rules and a clear case of gross negligence and carelessness was established. It was stated that the case property (the weapon of offence) was not produced in the court during the trial of the case concerned due to negligence of the applicant

LJ / MM

and hence the punishment awarded is justified. The point regarding misrepresentation of facts and showing the said dagger relating to a case under Section 324/34 IPC instead of Section 307/34 IPC was also established. The orders of the disciplinary authority as well as the appellate authority and of the Commissioner of Police on the revision petition are speaking orders and cannot be challenged and the punishment awarded is proportionate and commensurate with the gravity of misconduct of the applicant.

We have heard the counsel for ~~the~~ both the parties and gone through the papers very carefully. While it is true that the Inquiry Officer had concluded that under the circumstances, no oblique motive could be attributed on the part of the applicant, but it was found by the Inquiry Officer that the applicant by attempting to make the loss of the property goods by misrepresenting the case under Section 324/34 IPC and the charge against him was proved. We carefully examined the question of quantum of punishment awarded to the applicant. It was noticed that the period of two years for which the service of the applicant was forfeited is already over since the punishment was awarded on 29.11.84. Taking into account the facts of the case we consider that there are no compelling grounds for us to interfere in the quantum of punishment at this ~~late~~ stage.

Accordingly, the application is dismissed with no order as to costs.

Encov
(S. Nair) 1.5.1987
J.M.

W.M.
(V.S. Bhir)
A.M.