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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 939/1986

Date of decision: 20.08.1992

Shri Tej Singh, ASI

...Applicant

Vs.

Lt. Governor of Delhi & Another

...Respondents

For the Applicant

...Shri R.L. Sethi,  
Counsel

For the Respondents

...Mrs. Avnish Ahlawat,  
Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K. Kartha, Vice Chairman(J))

Two issues arise for consideration in the instant case, namely (1) whether the imposition of the minor penalty of censure on the basis of the preliminary enquiry conducted by the respondents is legally tenable and (2) whether the applicant is entitled to full pay and allowances during the period of his suspension.

2. The applicant is working as Assistant Sub Inspector in the Delhi Police. On 8.6.1984, he was placed under suspension pending enquiry into his conduct. On 25.09.1984, he was reinstated in service without prejudice

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to the departmental enquiry pending against him.

3. Departmental proceedings under Section 21 of the Delhi Police Act, 1978 was initiated against him for the alleged misconduct that while posted at P.S. Subzi Mandi, he demanded Rs.100/- from one Shri Y.R. Grover for taking action on his complaint lodged at the Police Station and on his insistence, Shri Grover gave Rs.50/- to him. It was also alleged that the applicant was not satisfied and asked Shri Grover for more money and took Rs.20/- from his younger brother and gave to the constable attached with the applicant.

4. A departmental enquiry was entrusted to SHO, Lahori Gate, who submitted his report stating that during the course of department proceedings all efforts were made to secure the attendance of the witnesses but the witnesses did not join the departmental proceedings. The Enquiry Officer reported that the departmental proceedings could not be taken up and the same might be dropped. After going through the report of the Enquiry Officer and other connected records of the departmental enquiry file, the Disciplinary Authority passed the order <sup>9</sup>dropped the department proceedings and impugned order dated 21.6.1985 whereby he called upon the applicant to show cause as to why his conduct should not be censured for his lapse and his suspension period should not be treated as not spent on duty. In response

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to the said notice, the applicant submitted his reply dated 30.05.1985. The contention of the applicant was that a false complaint was made against him and the complainant and other witnesses did not turn up during the departmental proceedings. The Disciplinary Authority did not find his explanation to be satisfactory. He observed that the allegations were substantiated in the course of the Preliminary Enquiry held in this connection. Accordingly, he held that the conduct of the applicant be censured. He further held that the period from 8.6.1984 to 24.9.1984 during which he remained under suspension will be treated as period not spent on duty.

5. The appeal and revision petition filed by the applicant against the aforesaid order were rejected by the appellate authority and the revisional authority.

6. We have gone through the records of the case and have heard the learned counsel of both parties.

<sup>a</sup> learned counsel for the applicant, <sup>a</sup> According to the l after dropping the enquiry, the Disciplinary Authority is not competent to impose the penalty of censure on him and ~~xxx~~ <sup>a</sup> he is entitled to full pay and allowances during the period of suspension. According to the respondents, the applicant was reinstated without prejudice to the departmental enquiry pending against him. They have ~~as~~ contended that there had been no irregularity in awarding the punishment of censure to the applicant which can be awarded without conducting regular departmental proceedings.

7. In our opinion, the Disciplinary Authority may drop an enquiry initiated against a Government servant without prejudice to holding a fresh enquiry. In the facts and circumstances of the instant case, <sup>& whether he was</sup> the question arises/ within his rights to impose a minor penalty on the applicant.

8. In our considered opinion, the imposition of the penalty of censure on the applicant was not justified in the instant case. The said penalty has been imposed on him on the basis of the findings in the preliminary enquiry in which the applicant had not been associated. Preliminary enquiry, by its very nature, is a fact finding enquiry conducted for the satisfaction of the authorities concerned as regards the existence of a prima facie case to initiate regular disciplinary proceedings against a Government servant. The findings in such a preliminary enquiry cannot be the basis for imposition of any penalty.

9. In the light of the foregoing, we allow the application. We set aside the impugned orders passed by the disciplinary authority, the appellate authority and the revisional authority. The applicant would be entitled to full pay and allowances for the period from the date his suspension to the date of his ~~re~~ reinstatement.

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The applicant shall also be considered for promotion in accordance with the relevant rules, treating as if no punishment had been imposed on him.

10. The respondents shall comply with the above directions as expeditiously as possible and preferably within a period of three months from the date of receipt of this order.

There will be no order as to costs.

*B.N. Dhoundiyal*  
(B.N. DHOUNDIYAL) 20/8/92  
MEMBER (A)  
20.08.1992

*P.K. Kartha*  
(P.K. KARTHA)  
VICE CHAIRMAN(J)  
20.08.1992

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