

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 945/1986

Date of decision: 14.08.1992.

Shri Nanak Chand

...Applicant

Vs.

Commissioner of Police, Delhi

...Respondents

For the Applicant

....Shri P.K. Sharma,
Counsel

For the Respondents

....Shri B.R. Parashar
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.
Karttha, Vice Chairman(J))

We have gone through the records of the case carefully and have heard the learned counsel of both parties. The applicant's father, Duli Chand who had worked as A.S.I. in Delhi Police was murdered in a dacoity and the applicant was appointed as temporary Head Constable on compassionate basis w.e.f. 13.1.1986. One of the conditions of appointment was that he would maintain the family of the deceased as there was no earning male member in the family. The applicant has stated that after his appointment, one Ram Saran who is also employed in the Delhi Police became jealous and inimical towards him and lodged a false FIR No.105/86

a

under Section 448/506/341 of the Indian Penal Code at Police Station, Kalyanpuri against all the family members of the applicant including his mother, minor brothers and wife. He also sent a complaint in the name of Dharam Veer Singh to the Additional Commissioner of Police, CID Special Branch, Delhi, upon which the applicant's services were [&] terminated ~~by~~ ^{by the impugned order dated 2.7.1986 &} without affording any opportunity of hearing as required under Article 311 of the Constitution of India. The representation made by the applicant to the Commissioner of Police did not receive any favourable response.

2. The respondents have stated in their counter-affidavit that the applicant absented himself unauthorisedly for the period from 24.4.1986 to 1.5.1986 and again from 5.5.1986 to 27.5.1986. However, he did not inform his office about his illness and also did not obtain permission of the competent authority to avail medical rest.

3. Apart from the above, the applicant trespassed into a plot and occupied a room constructed thereon and also threatened the owner of the house with dire consequences. Consequently, a case FIR No.105 dated 7.5.1986 under Section 448/506 IPC, P.S. Kalyan Puri, Delhi, was registered against him. He however concealed his involvement in the criminal case and did not inform his office. All this showed that he was not a law abiding police officer/citizen.

4. In view of the above, the respondents concluded that the applicant was not a fit person to be retained in the Delhi Police.

5. The question arises whether the impugned order of termination dated 2.7.1986 passed under Rule 5(1) of the CCS(Temporary Service) Rules, 1965, is legally sustainable. In our opinion, it is not an order of termination simpliciter, though it is couched in the language of an order of termination simpliciter. It is well settled that if the innocuous order is grounded upon features which cast stigma on the affected officer, he is entitled to defend himself in a proceeding under the rules applicable to him (vide Harpal Singh Vs. State of U.P. and Another, ATR 1988(1) SC 77; Anoop Jaiswal Vs. Government of India & Another, 1984(2) SCC 369).

6. In the instant case, there is an additional ground in favour of the applicant, namely, his appointment on compassionate grounds so as to support the members of his family as his father had been murdered while he was on duty. The impugned order of termination will hit the members of his family, hard.

7. In the facts and circumstances, we allow the application. We set aside and quash the impugned order of termination dated 2.7.1986 and direct the respondents to reinstate the applicant as Head Constable (Ministerial) expeditiously and preferably within a period of three months from the date of receipt of this order. The applicant would be entitled to pay and allowances from 2.7.1986 to the date of his reinstatement. *a*

8

- 4 -

8. We make it clear that after reinstatement of the applicant, the respondents will be at liberty to take appropriate action against him for any act of misconduct in accordance with law, if so advised.

The parties will bear their costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 14/8/92
MEMBER (A)
14.08.1992

P.K. Kartha
14/8/92
(P.K. KARTHA)
VICE CHAIRMAN (J)
14.08.1992

RKS
140892