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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.
* * *

Date of Order: 23.10.92

OA 1498/87

SHRI ABDUL QAIYUM ... APPLICANT.

Vs.

COMMISSIONER OF POLICE & ANR. ... RESPONDENTS.

CORAM:

THE HON'BLE MR. JUSTICE RAM PAL SINGH, VICE CHAIRMAN (J).
THE HON'BLE SHRI I.P. GUPTA, MEMBER (J).

For the Applicant ... SHRI B.S. CHARYA.

For the Respondents ... SHRI O.N. TRISHAL.

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

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE I.P. GUPTA, MEMBER (A).)

Both the counsels have concluded their arguments. In this Application, the applicant has requested for quashing of the punishment order dated 26.8.86, Appellate Order dated 11.11.86 and Revisional Order dated 1.4.87. The applicant was awarded the penalty of reduction to his substantive rank of Head Constable with immediate effect by order dated 26.8.86. The appeal was

rejected on 11.11.1986 and the Appellate Order is a fairly reasoned order. The Revisional Petition was also rejected.

2. The learned counsel for the applicant raised several issues such as non-furnishing of some document during the course of inquiry, his ignorance of the language of inquiry, malice against the inquiry officer etc. etc. However, we find that the Appellate Order and the Revisional Order are not non-speaking and several issues that are being raised now were not raised either in the course of appeal or in the course of revisional petition. The applicant was an ASI and his ignorance of the language of English does not satisfy us and it has not satisfied the disciplinary or the appellate authority. It is difficult to prove malice and more so when malice is attributed to two Enquiry Officers, who were conducting the enquiry into the present case.

4. We, therefore, find no good ground to set aside the order or penalty or the Appellate Order or the Revisional Order. But we do observe here that the learned counsel for the applicant raised an important point that the penalty

was awarded on 26.8.1986, and an amendment in the relevant Rules came about on 4.9.1986, i.e., just after ten days. This amendment provided for specifying the period of reduction. Earlier there was no such need to specify the period of reduction. Consistent with the Rules prevailing at the time of passing the Order the Disciplinary Authority has reduced the applicant with immediate effect and did not give the specified period for which the reduction would remain valid. It is clear that the respondents themselves have realised that a reduction cannot be in perpetuity, but should appropriately be for a specified period and soon after passing of the order of penalty in this case, the rules were amended. The amendment of the rules was even at time when the order of the Appellate Authority/Revisional Authority was not passed. It would have been open to the Appellate Authority/Revisional Authority to consider on his own the question of specifying the period while passing the Appellate/Revisional Order, since the Appellate Authority has the jurisdiction to enhance or reduce the penalty imposed by the Disciplinary Authority and the amendment was before him at that time. Therefore, we would expect the

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appropriate authority to reconsider the matter with a view to limiting the period of reduction to a specified period. While we are not setting aside the order of penalty or the Appellate Order or the Revisional Order strictly on the ground that no illegality, as such is noticed, yet in view of what has been said above, we expect the appropriate authority to consider passing an order within a period of two months from the date of communication of this order, in modification or amendment of the earlier orders passed by them, specifying the period of reduction.

5. With the aforesaid observations, the case is disposed of with no order as to costs.

I.P. GUPTA
(I.P. GUPTA) 23/10/91
MEMBER (A)

RAM PAL SINGH
(RAM PAL SINGH)
VICE CHAIRMAN (J)