

9

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

Registration O.A. No. 1551 of 1987

Rishi Pal Singh      ...    ...    ...    Applicant.

Versus

Union of India  
and others      ...    ...    ...    Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. S.R. Adige, Member (A)

( By Hon. Mr. Justice U.C. Srivastava, V.C.)

Shri Shyam Babu for the Applicant.  
Shri Jagdish Wats for the Respondents.

The applicant was originally appointed as a Constable in Delhi Police, Delhi w.e.f. 17.12.1976 along with 43 other candidates. According to the applicant on 11.4.1984, a quarrel took place at House No. E-65, Gali No. 6 Brahmputri, Silampur Delhi regarding a house belonging to one person namely Shri Nathi Lal and in this connection, a F.I.R. was lodged under Section 147/148/149/ 452/506/308 I.P.C. , P.S. Silampur, Delhi in which the name of the applicant was unfortunately dragged though he was not connected with the said alleged ~~@@@@@~~ incident. According to the applicant, he was not present on the spot and not even identified and the Additional Session Judge , Delhi vide its order dated 27.7.1985 acquitted all the persons including the applicant holding that the applicant was not connected with the commission of the offence.

The applicant who was earlier placed under suspension was reinstated back in service vide order dated 9.10.1985 without prejudice to any departmental action to be contemplated against him. According to the impugned order dated 17.2.1987, the Deputy Commissioner of Police, Crime and Railways, Delhi ordered a D.E. against the applicant under Rule 12(1) (b) of the Delhi Police (Punishment and Appeal) Rules, 1980 vide office order dated 16.10.1985 and Shri T.R. Sodhi was appointed as enquiry officer. The enquiry officer held that during the proceedings in the court, you as Sub. Inspector of Police took undue advantage of your position and made the complainant, party to effect compromise with you out of the court. According to the witnesses including the complainant, who had named you in the FIR, stood won over and did not intentionally identify you in the court which ultimately resulted in your acquittal by the court. A show cause notice was issued to the applicant who submitted his reply to the same. Thereafter the Deputy Commissioner of police agreeing ~~@@~~ with the report of the enquiry officer passed an order of stoppage of his increments for the period of three years. The appeal filed by the applicant was also dismissed, thereafter, he has approached to the Tribunal. The learned counsel for the applicant contended that after his acquittal, an action against him could only have been taken under rule 12(i) (b) of the Delhi Police (Punishment and Appeal) Rules, 1980 but his case is not covered with it. Rule 12 reads as under;

" 12. Action following judicial acquittal;

(1) When a police officer has been tried and acquitted by a criminal court, he shall not be punished departmentally on the same charge or on a different ~~other~~ charge upon the evidence cited in the criminal case, whether actually led or not unless;

(a) the criminal charge has failed on technical or

(b) in the opinion of the court or of the Deputy Commissioner of Police, the prosecution witness have been won over;

From the above mentioned provision of Rule 12(1) (b) it is quite clear that either in the opinion of the court which admittedly is not indicated in the aforesaid order of acquittal dated 27.7.1985. There was no witness before the enquiry officer or the disciplinary authority that the applicant prevailed upon a witness or that he prevailed upon the complainant into a compromise. Therefore, in the absence of any material whatsoever or on the basis of suspicion, no finding could have been recorded but in this case findings are based on the basis of conjecture.

2. Accordingly this application is allowed and the orders dated 17.2.1987 and 4.8.1987 are quashed, and as the result of the setting aside of these orders, the consequences will follow. No order as to the costs.

*Arif Ali*  
Member (A)

*U*  
Vice-Chairman

Dated: 17.3.1993

(n.u.)