

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.
T.A. No.

17/87

198

DATE OF DECISION 15-5-1987

Shri Brij Nandan Saxena

Petitioner Applicant

Shri Shyam Babu

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Shri B.R. Prashar

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice S. Zaheer Hasan, Vice-Chairman.

The Hon'ble Mr. Birbal Nath, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to all the Benches ?

15/5/87
(BIRBAL NATH)
A.M.


(S.ZAHEER HASAN)
VICE CHAIRMAN

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PRINCIPAL BENCH NEW DELHI.

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Shri Brij Nandan Saxena, ... Applicant

Vs.

Union of India.

CORAM:

Hon'ble Mr. Justice S. Zaheer Hasan, Vice-Chairman.

Hon'ble Mr. Birbal Nath, Administrative Member

For the applicant: Shri Shyam Babu, Advocate.

For the respondent Shri B.R. Prashar, Advocate

(Delivered by Hon'ble Shri Birbal Nath, AM)

JUDGMENT.

This is an application filed under Section 19 of the Administrative Tribunals Act (No. XIII of 1985) praying for setting aside the order dated 1.8.1986 retiring the applicant, Shri Brij Nandan Saxena, A.S.I. of Delhi Police, from service with effect from the same date under Rule 56 of the Fundamental Rules, and Rule 48 of the Central Civil Services (Pension) Rules, 1972.

The facts leading to the application are that the applicant who had joined service with Delhi Police as Constable on 20.4.1958, earned his promotions as Head Constable and

Assistant Sub-Inspector of Police in which rank he was confirmed in 1979. At the time of compulsory retirement the applicant was working as confirmed A.S.I. The applicant claimed that he had unblemished record of service except one censure, awarded to him on 31.12.1983. As against his earning 88 commendation certificates this was the only punishment till he was hauled up in a departmental inquiry on the allegation that he had arrested one Anil Kumar alias Chitta in connection with Case F.I.R. No. 287 dated 19.7.1983 under Sec. 9, Opium Act, Police Station Original Road and had recovered Rs. 557/- along with a gold ring and an artificial ring, but the applicant had shown a recovery of only Rs. 23.50/-. On the allegation of preparing incorrect recovery memo and keeping goods recovered from the person of the accused with him the applicant was proceeded against departmentally and as a result of departmental proceedings drawn his two years' approved service was forfeited vide order dated 18.3.1986 passed by the disciplinary authority, that is, Deputy Commissioner of Police, Prov. & Lines, Delhi. He filed an appeal against the said order of punishment on 17.4.1986. Meanwhile it was decided by the police department to retire him from the service per ^{order} proceedings drawn on 1.8.1986. After his retirement the appeal of the applicant was decided by the appellate authority vide its order dated 27.11.1986 wherein it was held that the applicant had unblemished record of service and the punishment of two years' forfeiture of service was

set aside. Whereas the appellate order noted the various infirmities in the D.E. proceedings it was held that the benefit of doubt should go to the applicant and that the prosecution has miserably failed to prove the charge framed against the defaulter beyond any shadow of doubt.

Learned counsel for the applicant argued that the order of retirement was passed on no material, and not by the appointing authority and in violation of the guidelines issued by the Government on the subject. This case can be disposed of on a short point that while the retirement order was passed on 1.8.1986, the order of the appellate authority dated 27.9.1986 was not available either to the Screening Committee nor to the Reviewing Authority nor to the appropriate authority. In this view of the matter, in the interest of justice, it is incumbent upon the respondents no. 1 and 2 ~~should~~ re-appraise the case of the applicant in the light of the order passed by the appellate authority and observations made by it with regard to the service record of the applicant.

We, therefore, direct respondents no. 1 and 2 to review the entire matter within three months from the date of receipt of this order keeping the above observations in view and the pleas raised by the applicant in his application of 2.1.1987 filed before this Tribunal, a copy of which should be sent along with this order. In view of the above directions we do not consider it

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necessary to go into the other contentions raised at the Bar.

This application is disposed of accordingly. In the circumstances of the case, there will be no order as to costs.

2/13/87

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(BIRBAL NATH)
15.5.1987. MEMBER (A)
R.P.

(S.ZAHEER HASAN)
VICE CHAIRMAN.