

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 1753/87.
T.A. No.

199

DATE OF DECISION 31.12.1990.

Shri Ramesh Chand

Petitioner

Shri D.S.Choudhary

Advocate for the Petitioner(s)

Versus Delhi
Commissioner of Police/& Ors.

Respondent s

Shri M.M.Sudan,

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Amitav Banerji, Chairman.

The Hon'ble Mr. I.K.Rasgotra, Member (A)

- 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 it needs to be circulated to other Benches of the Tribunal ?

(Ab)
 (AMITAV BANERJI)
 CHAIRMAN
 31.12.1990.

14

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Regn. No. OA 1753/87

Date of decision: 31.12.1990.

Ramesh Chand

... Applicant

vs

Commissioner of Police Delhi ... Respondents
and Ors.

Coram:

Hon'ble Mr Justice Amitav Banerji, Chairman
Hon'ble Mr I.K. Rasgotra, Member (A)

For the applicant

... Shri D.S. Choudhary,
counsel.

For the respondents

... Shri M.M. Sudan,
counsel.

(Judgement of the Bench delivered by
Hon'ble Mr Justice Amitav Banerji, Chairman)

This O.A. involves a short question. The applicant is aggrieved by the order imposing a penalty of forfeiture of four years' service. He was in the Delhi Police. The charge against him is that he had picked up a quarrel and manhandled Head Constable, Om Prakash on 16/17 May, 1985. He had been served with a chargesheet and a departmental inquiry was conducted which submitted its findings on 7.4.1986 to the Deputy Commissioner of Police, 1st Bn., Delhi Armed Police. A show cause notice was served upon the applicant asking him to show cause why a penalty of dismissal be not imposed on him for his alleged misconduct. A reply was filed by the applicant. The then Deputy Commissioner, 1st Bn., Shri J.P. Singh vide his order dated 24.7.1986 altered the proposed penalty of dismissal to forfeiture

of four years approved service permanently entailing reduction in his pay proportionately. The applicant's pay was reduced from Rs. 308/- p.m. to Rs. 284/- p.m.

In this O.A. the applicant had challenged the findings of the Enquiry Officer which he has termed to be erroneous. In the grounds raised it is mentioned that H.C. Om Prakash (PW-1) and H.C. Gowardhan (PW-2) had stated that the applicant was not present at the time of quarrel. H.C. Uday Vir Singh (PW-3) stated that he did not see the applicant there and Constable Ranjeet Singh (PW-4) and S.I. Hans Raj (PW-5) ascribed no part to the applicant. The deposition of Inspector Kishori Lal (PW-7) was not believable for he was not present at the spot. The punishing authority was wrong in relying upon the statement of PW-7, Inspector Kishori Lal. Another ground raised was that the medical report does not indicate that the applicant was under the influence of intoxication. On this basis, the plea of the applicant was that the findings of the Enquiry Officer were perverse and not based on the evidence adduced during the enquiry. It may be mentioned here that the applicant had filed an appeal which had been rejected but with only a modification in the punishment awarded.

Learned Counsel for the applicant, Shri D.S. Choudhary urged on the basis of the report of the Enquiry Officer that the findings arrived at by him did not indicate that there was a proper application of mind on

behalf of the Enquiry Officer and that the evidence had not been assessed properly and as such the question of imposing any punishment on the applicant did not arise.

Shri M.M. Sudan, appearing for the respondents contended that it is not open to the Tribunal while hearing the OA under Section 19 of the Act, to sit as a court of appeal and to assess the evidence afresh. His further argument was that this was not a case of no evidence at all and as such this Tribunal may not interfere with the findings.

After hearing learned counsel for the parties and considering the material on the record, we are satisfied that this is not a case for interference at all. What was contended by the learned counsel for the applicant was that the findings arrived at by the Enquiry Officer were vitiated by inappropriate assessment of evidence. This Tribunal cannot re-assess the evidence nor can it sit as a court of appeal. It is well settled that the Tribunal has no power to re-assess the evidence to arrive at its own conclusion as to whether the charge against the applicant had been correctly made out or not. The Tribunal has undoubtedly power to interfere only where there is not iota of evidence against the applicant from the material on the record. We have gone through the record and we are satisfied that there was evidence against the applicant and it is not a case of no evidence at all. It is, therefore, not open to this Tribunal to sit

as a court of appeal and re-appraise the evidence.

Thus there is no scope for interference with the same.

We have, therefore, come to the conclusion that there is no merit in this O.A. and it must fail. We order accordingly. There will be no order as to costs.


(I.K. Rasgotra)
Member (A)

31.12.1990


(Amitav Banerji)
Chairman

31.12.1990