

2 3

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

R.A. No. 327 of 1993 In  
O.A. No. 1631 of 1987

New Delhi this the 2<sup>u</sup> day of February, 1997

HON'BLE SHRI A.V. HARIDASAN, VICE-CHAIRMAN(J)  
HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

Shri Vishnu Dutt  
R/o 17-UA, Jawahar Nagar,  
Delhi.

...Applicant

Shri L.C. Goyal with Ms. Sunta Bamezai, Counsel  
for the applicant.

Versus

1. Union of India through  
Secretary,  
Ministry of Home Affairs,  
Government of India,  
New Delhi.
  2. Shri V.P. Marwah  
Commissioner of Police,  
Delhi,  
I.P. Estate,  
New Delhi.
  3. Shri H.C. Jatav,  
Additional Commissioner of Police(R),  
I.P. Estate,  
New Delhi.
  4. Shri Neeraj Kumar  
Additional Deputy Commissioner of Police,  
Central District,  
Delhi.
- ...Respondents

Shri S.K. Gupta, proxy counsel for Shri B.S. Gupta,  
Counsel for the respondents.

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

This Review Application is filed by the  
applicant against the ex-parte order passed in O.A.  
No. 1631 of 1987. This was heard by us as the Bench

w

.2.

which disposed of the earlier O.A. was no longer available. The Review Applicant seeks the review of the order on the following grounds:-

(i) He alleges that there was an error inasmuch as in the order on the aforesaid O.A., it was pointed out that "the petitioner had failed to establish that the impugned order had been made by the authority lower than the appointing authority". It was alleged in the O.A. that the impugned order in the O.A. was passed by the Additional Deputy Commissioner of Police, who was not competent to pass the said impugned order as the petitioner was appointed by the Deputy Inspector General of Police. The Bench held that from the order of the Commissioner of Police, Delhi dated 7.11.1985, the enlistment of the petitioner was made by the Superintendent of Police and according to Rule 12 read with Rule 4 of the Delhi Police (Punishment & Appeal) Rules, 1980, the Superintendent of Police and the Additional Deputy Commissioner of Police were competent to award the punishment of dismissal. The applicant in the RA submits that his services were terminated on 12.6.1984 and, therefore, the observation of the Tribunal that petitioner was enlisted by the order of the Commissioner dated 7.11.1985 did not arise and, therefore, to this extent, the departmental representative misled the Tribunal. He also contends that since he was appointed by the Deputy Inspector General of Police, he could not be punished by an order passed by the Additional Deputy Commissioner

of Police and the Tribunal had wrongly concluded that Superintendent of Police and the Additional Commissioner of Police were not competent to award the punishment of dismissal and, therefore, there was an error in the Tribunal's order on the face of the record.

(ii) The other ground taken in the Review Application is that the Tribunal had observed that on the merits of the case, the findings were based on the evidence produced during the course of the enquiry and the petitioner was given adequate opportunity of defending the case at every stage and, therefore, it was not possible to accept the bald assertion of the petitioner that he was not given adequate opportunity of defending himself and there was violation of principles of natural

justice etc. The applicant in the Review Application contends that the Tribunal had not considered the pleadings in the Original Application. That all the communication were addressed at his village address and the proceedings of the enquiry were also held ex-parte and <sup>on</sup> the facts of the case of the petitioner, he could not be punished under the said Punjab Police Rules 14.11A and 16.11. He also submits that in the pleadings in the Original Application, he had pointed out that during the period of absence from 30.4.1980 to 19.7.1980, he

h

was even paid salary on acceptance of medical certificates and inspite of that, he was served with an impugned memorandum of charge-sheet and departmental enquiry was held against him and the impugned order was passed.

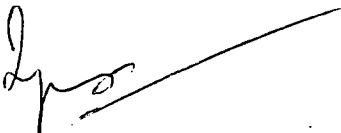
2. We have heard the learned counsel for the parties in this case and have also perused the contents of the Review Application.


3. In regard to the first ground, we find that in the order passed by Commissioner of Police on the revision petition, it has been mentioned that the petitioner was enlisted in Delhi Police as a Constable by the Superintendent of Police, i.e., in Commandant, DAP on 15.2.1962 and in accordance with Rule 12-A read with Rule 4 of the Delhi Police (Punishment & Appeal) Rules, 1980, Superintendent of Police (now DCP) and Additional D.C.P. are competent to award the punishment of dismissal. The applicant had misunderstood the position. It was not stated in the order passed by the Tribunal, that applicant was enlisted by the order of the Commissioner dated 7.11.1985. What was stated in the order was that in the order of Commissioner, it was stated that the applicant was enlisted by Superintendent of Police. In the departmental file perused by us on the disciplinary proceedings, there is no material to indicate that the applicant was appointed by the DIG of Police. Accordingly in the aforesaid Tribunal's order also it was observed that the petitioner had not produced any satisfactory material in support of his case that he was appointed by the DIG of Police. Even in the present Review

Application also the applicant has not produced any material in support of the same. Accordingly, we find that there is no error or omission apparent on the face of the record in the order passed by the Tribunal, as alleged by the applicant.

4. As regards the other ground that the enquiry was vitiated as his pleadings in the Original Application regarding the enquiry were not properly taken into account and the Tribunal was misled by the departmental representative, we are of the considered view that the applicant seeks to reagitate this matter in Review Application. In view of this, we do not find sufficient ground to hold that there had been any error or omission on the face of the record.

5. In the light of the foregoing, we are of the considered view that this Review Application cannot be entertained under Order 47 Rule 1 of the CPC as no error or omission is made out on the face of the record and accordingly this application stands rejected.

  
(K. MUTHUKUMAR)  
MEMBER (A)

  
(A.V. HARIDASAN)  
VICE-CHAIRMAN(J)

Rakesh