

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

O.A. No.782/1987.

Date of decision: November 17, 1989.

Shri Ude Singh

....

Applicant.

Vs.

Delhi Administration & Ors. ...

Respondents.

CORAM:

Hon'ble Mr. Justice Amitav Banerji, Chairman.

Hon'ble Mr. B.C. Mathur, Vice-Chairman (A).

For the applicant ...

Shri Mukul Talwar, counsel.

For the respondents ...

Shri G.C. Lalwani, counsel.

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

The applicant, who was a Sub Inspector of Delhi Police was posted as Personal Security Officer to the visiting French Energy Minister Mr. Jean Aurox in New Delhi between 18th September, 1983 and 24th September, 1983. The applicant moved with the French Minister, who had come to New Delhi to attend the World Energy Conference. He had also seen him off at the Palam Airport on 22nd September, 1983.

The applicant has been charged with some incidents which took place on 22nd September, 1983 at the Palam Airport, New Delhi. It is stated in Annexure 'E' to the Application that under the influence of liquor, the applicant behaved

in an un-pleasant and objectionable manner at the time of departure of the VIP from Palam Airport and had also not obeyed the direction to accompany Inspector Hazura Singh. It was further indicated that the above act on his part amounted to grave carelessness, indiscipline and dereliction of duty and rendered him liable for departmental proceedings under Section 21 of Delhi Police Act, 1978. Subsequently, a charge was framed against him by Shri Balram Nath Laroiya, Enquiry Officer, Asstt. Commissioner of Police, Security, New Delhi dated 12.10.1983 which had been approved by Shri Ajay Agrawal, DCP/Security, New Delhi by order dated 23.9.1983. The charge against the applicant was that while posted on duty as P.S.O. to French Energy Minister, on 22/23.9.1983, he wrongly informed the VIP and other senior officers present in the Ceremonial Lounge (Palam Civil) that the flight was ready to take off, upon which the VIP was rushed to the tarmac to catch the flight, but he had to wait near the aircraft unnecessarily as the aircraft was still in the process of being cleaned and none of the passengers had boarded the flight. This caused the VIP undue harassment and embarrassment to the high Govt. officials present there. Secondly, he had patted the lady accompanying the VIP which was most unlike a P.S.O.,

objectionable, most unpleasant behaviour and unbecoming of a disciplined police officer. A complaint was made against the applicant by the Protocol Officer Shri G.S. Bhatia to the DCP/Security Shri Ajay Agrawal alleging that the applicant had misbehaved under the influence of liquor. He had been, therefore, directed to accompany Inspector Hazura Singh for medical examination the same night which the applicant did not comply and gave a slip. It was further stated that these acts show gross misconduct, carelessness, indiscipline, dereliction of duty and disobedience of the orders of the senior officers.

The applicant denied all these incidents and gave explanation for his movements on that date. The applicant has stated that he was not guilty to any of the charges. He has stated that not only the charge was false, but also malicious and the complaint was mala fide, revengeful and mischievous on behalf of the officers concerned.

In the disciplinary proceedings Shri Ajay Agrawal, D.C.P., Security, appeared before the Enquiry Officer as a witness. It is significant to note that he had appointed the Enquiry Officer and had approved the charges framed.

It is not necessary to go into other matters or other facts in the present case except to say that there

18

were two letters dated 25.1.1984 (Annexure 'B' to the O.A.) and another dated 27.9.1984 (Annexure 'C' to the OA) from the Minister Counsellor to the Commissioner of Police Delhi, which praised the work of the applicant while on duty with the French Minister.

We have heard Shri Mukul Talwar for the applicant and Shri G.C.Lalwani, counsel for the respondents and have perused the record.

It is not necessary for us in this proceeding to wade through the evidence or appreciate the same, for we are not the Disciplinary Authority in an appeal. We find the entire proceedings were vitiated by reasons of bias. The Disciplinary Authority Shri Ajay Agrawal, DCP, Security approved the charges and appeared as witness before the Enquiry Officer. This, in our opinion, is sufficient to vitiate the enquiry proceedings. The procedure adopted in the enquiry proceedings is contrary to law and against the rules of natural justice. It is well settled that any Disciplinary Authority which has a bias against an employee is not competent to continue the proceedings. The very fact that he appeared as a witness in the proceedings shows his bias. It is not expected of a Disciplinary Authority

as

12

to appear as a witness in a case against an employee. If his evidence was necessary, he should have appeared as a witness but should have not initiated the disciplinary proceedings. Further, since he had initiated the disciplinary proceedings, he should not have appeared as a witness. Rules of natural justice have been violated in the present case and, therefore, the disciplinary proceedings must be set aside. We are informed that the applicant has retired from Delhi Police on 31.1.1989.

In view of the above, we are of the view that the impugned order dated 8.3.1986 (Annexure 'K' to the O.A.) imposing punishment and order dated 16.10.1986 (Annexure 'M' to the O.A.) rejecting the appeal should be set aside.

The second prayer by the applicant is for quashing the order dated 7.5.1986 (Annexure 'N' to the OA) treating the suspension period of the applicant from 29.9.1983 to 19.11.1985 as non-duty. We quash the proceedings and hold that the suspension period from 29.9.1983 to 19.11.1985 be treated as duty. We return the papers to the Commissioner of Police, Delhi. We leave it open as to whether fresh proceedings may commence against the applicant or the proceedings be dropped by the respondents.


In the circumstances, the applicant's pay and


Ag

pensionary benefits may be refixed in accordance with Rules.

The Application is accordingly allowed but there will be

no order as to costs.


(B.C. Mathur)
Vice-Chairman (A)
17.11.1989.


(Amitav Banerji)
Chairman
17.11.1989.

SKS