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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.113/90

New Delhi, This the 10th Day of June 1994

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri B K Singh, Member (A)

Shri Shiv Charan
Head Constable 1/P-85/N
V.R.K. North District
Delhi.

...Applicant

By Shri J P Verghese, Advocate

Versus

1. Delhi Administration
through its Chief Secretary
Old Secretariat
Rajpura Road
Delhi.

2. The Commissioner of Police
Police Headquarters
Delhi Police
I.P. Estate
New Delhi. 110002.

...Respondents

By Shri O N Trisal, Advocate

O R D E R

Hon'ble Shri J P Sharma, Member (J)

1. The applicant initially joined as a constable in Delhi Police on 7.3.69 and was promoted as Head Constable on 12-10-1982. On 5.9.87 the applicant was posted on duty at Terminal II of Indira Gandhi International Air Port. He was served with a summary of allegations that he has received certain gifts from one foreign passenger (Japanese citizen). He was given a memo on 9-9-1987. Shri Shakti Singh, Inspector

Departmental Enquiry Cell, Vigilance, Delhi was appointed as enquiry officer. He examined the witnesses R K Marwah, Asst Duty Officer, Shri Jagjit Singh, ~~Abhiwaliara~~ P W I and P W -2 and Shri Nathu Singh Inspector CW 1. The charge sheet was framed against the applicant and the applicant has produced 3 defence witnesses Constable Jai Pal Singh, Shri Rattan Pal Singh, SI and Mohinder Singh, Constable as DW1, DW2 and DW3. The enquiry officer has given the conclusion that the charges against the applicant are substantiated beyond doubt. The applicant was issued a show cause notice by Deputy Commissioner of Police dated 26.12.87 on the findings of the enquiry officer as to why he should not be dismissed from service. The applicant filed reply to the show cause notice and after considering his reply the disciplinary authority vide order dated 10-2-89 imposed the punishment of forfeiture of 5 years approved service permanently for a period of 5 years and entailing reduction in pay proportionately. The applicant preferred an appeal to the Additional Commissioner of Police which was dismissed by the order dated 23-11-89. Thereafter the applicant filed the present application on 19.1.90 praying for the grant of relief that the impugned order of punishment be quashed and restrain the respondents from

withholding the promotion of the applicant to the post of Assistant Sub Inspector.

2. The respondents contested the application and has stated that the applicant was given adequate opportunity in the departmental enquiry and after considering the evidence on record disciplinary authority imposed punishment by the impugned order after taking into account the representation preferred by the applicant on the show cause notice. The Appellate Authority also considered the matter. The applicant has no case. The applicant has also filed rejoinder reiterating the same facts.

3. We heard the counsels of parties at length and perused the record. The contention of the learned counsel for the applicant is that he was not at all present on the site and there is also another HC Shiv Charan. As regards the posting of another Head Constable at the same place the summary of allegations have been served on the applicant by the name with the personal numbers in the rank of HC. The contention of the learned counsel is that the other Shiv Charan posted in PAP those days was Reader to ACP/PAP. It does not stand to reason why the applicant would have been preferred against the real culprit. The contention of the learned counsel for the applicant is that he has already left for arrangement duty on Carriage

along with other staff at 3.30 P.M. on 5.9.87. As
he could not be present just to accept the gifts
from the Japanese citizen. This point have
already been considered by the enquiry officer
Shakti Singh in his report. The applicant has
examined ^{who stated} ~~mistaken~~ constable Jaipal Singh ^{and that the} applicant has left for arrangement as well as examined
Constable Ram Rattan and Constable Mohinder Singh
at the point. The enquiry officer has observed
that the statement of these three witnesses are
contradictory in nature. Some of the defence
witnesses have shown the presence of H.C. Shiv Charan
in the duty while others ^{have} ~~has~~ denied this. Thus
appreciation of evidence done by the enquiry
officer of the statement of R.K. Marwah, Jagjit
Singh Inspector cannot be said to be in any way
faulty or perverse. The Tribunal cannot re-appreciate
the evidence on the standard of the criminal case
as desired by the learned counsel for the applicant.
The learned counsel for the applicant has relied
on two case of Nand Kishore Prasad reported in
1978 (3) SCC page 366; 1984 (1) SCC page 1
Glaxo Laboratories vs Presiding Officer Labour Court.
and 1980 (3) SCC page 459 in V.N. Bajpai's case.
All these cases are on the point that there must
be some evidence on record to justify the findings

It is obvious that the applicant wanted to be exonerated because he was at fault. It has also come on the record that the applicant was detailed for arrangement duty at Cargo but he actually did not report at the place of duty and remained present in the departure wing and talking with Japanese passenger. This is a proof that Inspector Jagjit Singh gave before the enquiry officer. The other cases cited by the learned counsel for the applicant CBI Versus 1969 (12) SLR page 734 and Union of India Versus S C Goel AIR 1964 (SC) Page 364 have no application.

5. The learned counsel for the applicant has argued at a greater length that the Tribunal can go into the merit of the evidence without appreciating the same.

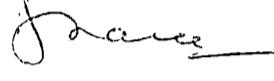
6. We have gone through the orders passed by the disciplinary authority who has also considered the representation filed by the applicant. Similarly the Appellate Authority has also considered the ground taken in the appeal. The impugned order therefore does not need any interference.

7. Regarding quantum of punishment the respondents have taken a lenient view as the applicant has accepted the gifts from a foreigner without thinking that this action will bring dishonour to the country as a whole.

In fact gifts were taken to get some work done by the passenger and that was illegal gratification in kind. Punishment imposed is therefore justified.

8. In view of the aforesaid circumstances we find no merit in this application and hence the OA is dismissed as devoid of any merit. No costs.


(B K Singh)
Member(A)


(J P Sharma)
Member(J)

LCP