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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1591/90

New Delhi, 2.9. 1994

CORAM :

THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

THE HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

Bhopal Singh,
Head Constable No.227/DAP,
1st Battalion,
Delhi Armed Police, Delhi.

... Applicant

By Advocate Shri J. P. Verghese

Versus

1. Delhi Administration through its
Chief Secretary,
Old Secretariat, Delhi.

2. Commissioner of Police,
Police Headquarters,
IP Estate, New Delhi.

3. Shri B. D. Sharma,
Inspector, 1st Bn. DAP,
Delhi.

... Respondents

By Advocate Mrs. Avnish Ahlawat

O R D E R

Shri S. R. Adige, Member (A) -

In this application Shri Bhopal Singh, Head Constable, Delhi Police has impugned the Dy. Commissioner of Police order dated 17.1.1989 (Ann.-I) forfeiting one year's approved service entailing reduction in the applicant's pay from Rs.1100/- p.m. to Rs.1075/- p.m. having permanent effect on his seniority, which has been upheld vide appellate order dated 9.2.1989 (Ann.-II).

2. The applicant was proceeded against departmentally on the charge (Ann. VII-B) that while posted as H.C. Kot 1st Bn. DAP, he snatched the ammunition register from Inspector Kot Shri B. D. Sharma, abused and misbehaved

with him in the office on 11.4.1988 at about 5 p.m. in the presence of S.I. Bharat Singh and other staff, and during snatching, one page of the ammunition register was torn into pieces.

3. The enquiry officer in his report dated 15.10.89 (Ann.V) held that the charges against the applicant could not be substantiated. Disciplinary authority disagreeing with those findings, imposed the impugned penalty, which was upheld in appeal.

4. The applicant has taken various grounds in this application. Without going into all those grounds at this stage, we note a fatal infirmity in the conduct of these proceedings inasmuch as when the disciplinary authority disagreed with the findings of the E.O. he should have communicated the reasons for his disagreement together with a copy of the E.O.'s report and given the applicant an opportunity to show cause before imposing the penalty. It is settled law that the failure to adopt such a procedure in a D.E. when the disciplinary authority disagrees with the findings of the E.O. amounts to substantial denial of natural justice to the charged official, which is not cured merely because an opportunity to file an appeal is availed of, and is fatal to the departmental proceedings.

5. In the result the impugned penalty order and the appellate order are quashed and set aside. The case is remanded back to the respondents for conducting the D.E. afresh from the stage of communicating a copy of the E.O.'s report along with the reasons for

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the disciplinary authority's disagreement, to the applicant and giving him an opportunity to show cause against the same, on receipt of which ^{at 11} ~~the same~~ should be disposed of by a detailed speaking order giving reasons for the same. No costs.

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Member (J)

S. R. Adige
(S. R. Adige)
Member (A)

/as/