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CENTRAL ADMINISTRATIVE TRIBUNAL ,PRINCIPAL BENCH,  
NEW DELHI.

O.A.No.174 of 1990

New Delhi this 15<sup>th</sup> day of July, 1994.

Hon'ble Mr.S.R.Adige, Member(A)

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)

Nurrudin Constable No.3918/DAP  
s/o Sh.Majid r/o Village Tajpur Kalan,  
P.O.Tajpur Kalan, Delhi .....Applicant.

By Advocate Shri A.S.Grewal

Versus

1. Lt.Governor of Delhi, through Chief  
Secretary, Delhi Administration, Delhi.
2. Commissioner of Police Delhi,  
Delhi Police Headquarters, MSO Bldg.,  
I.P.Estate, New Delhi.
3. Additional Commissioner of Police (A.P.)  
Delhi Police Headquarters, MSO.Bldg.,  
I.P.Estate, New Delhi.
4. Deputy Commissioner of Police/4th Bn.DAP,  
New Police Lines, Kingsway Camp, Delhi  
.....Respondents.

By Advocate Shri Vinay Sabharwal.

JUDGMENT

By Hon'ble Mr.S.R.Adige, Member(A)

In this application, Shri Nurrudin, Constable  
Delhi Police has impugned the order dated 4.7.88  
(Annexure-F) forfeiting three years' approved  
service permanently, which has been upheld in  
appeal vide order dated 21.10.88 (Annexure-G) and  
in revision vide order dated 31.1.89(Annexure-H).

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2. Shortly stated, the applicant was proceeded against departmentally on the charge that while undergoing recruit training in IVth Bn. DAP, he left the training centre on 24.1.78 after evening roll call without permission together with one Constable Jaibir Singh to see a Night Cinema Show. The applicant is alleged to have taken Constable Jaibir Singh to village Alipur by bus and asked him to reciprocate to an unnatural act, when he was being taken to his village Tajpur. On Jaibir Singh's refusal to participate, the applicant is alleged to have bitten him, which led to a scuffle between the two. Constable Jaibir Singh reached the nearest police line and narrated the whole story to H.C. Ishwar Singh, who in turn brought the facts of the case to the notice of R.I. IVth Bn. Shri Piyare Lal who along with S.I. Hukan Singh took both the Constables to Alipur Police Station where the statements of both of them were recorded and they were sent to the police hospital for medical examinations. They were medically examined on 25.1.78, and on the basis of medical report, as no cognizable offence was made out, both of them were sent back to the IVth Bn. DAP.

3. A criminal case was instituted against the applicant and his services were terminated w.e.f. 3.2.78. The applicant filed a Civil suit against the termination, which was dismissed by the Sub Judge, Delhi, against which

the applicant filed an appeal before the Senior Sub Judge, which was later transferred to the CAT and numbered as T.A.No.391/85. The Tribunal in its judgment dated 3.7.87 in that T.A., set aside the Senior Sub Judge's order and held that the order dated 3.2.78 terminating the applicant's services was illegal and directed that he should be reinstated in service with effect from the date of his termination with all consequential benefits. The respondents, however, were given liberty to initiate, if so advised, disciplinary proceedings on the basis of the alleged misconduct and pass necessary orders in accordance with law (Annexure-A). The respondents accordingly initiated departmental proceedings which culminated in the impugned order dated 4.7.88 which has been upheld in appeal as well as in revision.

4. We have heard Shri A.S.Grewal, learned counsel for the applicant and Shri Vinay Sabharwal, learned counsel for the respondents.

5. The first ground taken by Shri A.S.Grewal is that the report of the preliminary Enquiry Officer Shri Piyare Lal, who was examined as P.W., was not client, supplied to his/which violated the instructions contained in Vigilance Branch Circular dated 1.5.80 (Annexure-J) and thus vitiated the entire departmental proceedings.

6. In their reply, the respondents have contended that no preliminary enquiry was got conducted by Inspector Piyare Lal, and as such the question of supplying a copy of his preliminary enquiry report, on his statement, as the then RI/IVth Bn.DAP, to the applicant does not arise. It has been stated that Shri Piyare Lal, who was examined as P.W. in the departmental enquiry, took the recruit Constables to Alipur Police Station after the incident where the statements of both the Constables were recorded. During examination of this P.W., the applicant was given full opportunity by the Enquiry Officer to cross-examine the P.W. and hence the allegation that the departmental enquiry is vitiated, was baseless.

7. The non-supply of any materials to the applicant during the D.E., which relates to the preliminary inquiry would no doubt prejudice the applicant adversely if he can establish that the Enquiry Officer based his findings on those materials, which were denied to him. In the present case, however, the revised charges dated 10.3.88 communicated to the applicant which culminated in the impugned order dated 4.7.88 relate to absenting himself unauthorisedly from the Police Line on 24.1.78 after evening roll call along with Constable Jaibir Singh, proceeding to Tajpur and quarreling among themselves. This charge has been held to have been proved by the Enquiry Officer independantly of any materials relating to the preliminary enquiry, so much so that the fact that the applicant quarreled with Constable Jaibir Singh <sup>which</sup> ~~even~~ resulted in injuries to the two <sup>men</sup> ~~which~~ were recorded in MLC No.3642 dated 24.1.78 in respect of the applicant and MLC No.3643 dated 24.1.78 relating to Constable Jaibir Singh recorded by Dr. A.K. Bhardwaj, copies

of which were supplied to the applicant. Further more copies of D.D. entry No.26 dated 25/26.1.78 and D.D. entry No.13, both of P.S.Alipur and D.D. entry No.35 of IVth Bn.DAP, Delhi were also supplied to him, which he received before the commencement of the departmental enquiry. That apart from, there is <sup>the</sup> ~~statement~~ <sup>an</sup> of applicant's own confessional statement dated 25.1.78 that he unauthorisedly absented himself from the Police Lines on the evening of 24.1.78 along with Constable Jaibir Singh (Exhibit P.W.2/1), as well as Constable Jaibir Singh's own statement dated 24/25.1.78 (Exhibit PW 2/2) corroborating the same. That being the position, we are unable to see how the applicant was adversely prejudiced if on the basis of <sup>the</sup> ~~the~~ above materials, the respondents did come to the conclusion that the charges against the applicant were proved. At one point Shri Grewal has argued, rather half-heartedly that the written statement signed by the applicant that he had absented himself unauthorisedly on the evening of 24.1.78 was taken from him under pressure, but there is nothing to substantiate this allegation.

8. Shri Grewal's other assertion that in the absence of any D.D. entry, there is nothing to indicate that the applicant had absented himself from the police lines in the evening of 24.1.78 after roll call, has also no force in the light of the written statement submitted by the applicant that he had absented himself from the police lines without permission on 24.1.78 after evening roll call.

9. Shri Grewal lastly has urged that the penalty of forfeiture of three years' approved service permanently entailing reduction in his pay from Rs.1050/- p.m. to Rs.990/- p.m. amount to inflicting a doubt punishment, which is illegal. This argument also has no force, in view of the contents of Rule 8(2) (d) of the Delhi Police (Punishment & Appeal) Rules, 1980 which specifically provides that approved service may be forfeited permanently or temporarily for a specified period entailing reduction in pay permanently or temporarily. Hence, in fact, the punishment is only one and not two.

10. In the result, the impugned order warrants no interference, and this application is dismissed. No costs.

*Lakshmi Swaminathan*  
(LAKSHMI SWAMINATHAN)  
MEMBER (J)

*S.R. Adige*  
(S.R. ADIGE)  
MEMBER (A)

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