

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI  
\*\*\*

D.A.No. 1870/90.

Date of decision: 11th Jan 1995

Hon'ble Shri P.T. Thiruvengadam, Member (A)

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

Shri Naresh Kumar,  
Constable No. 1508/W,  
P.S. Tilak Nagar,  
New Delhi. ... Applicant

(By Advocate Shri J.P. Verghese)

versus:

1. The Delhi Administration,  
through its Chief Secretary,  
Old Secretariat,  
Regpura Road,  
Delhi.

2. The Commissioner of Police,  
Police Headquarters,  
I.P. Estate,  
New Delhi. ... Respondent s

(By Advocate Ms. Avnish Ahlawat)

O\_R\_D\_E\_R

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

This petition has been filed by the applicant  
who was dismissed from service as Constable in Delhi  
Police by Order dated 27.7.1989 (Annexure D) against  
which his appeal was also rejected by the Appellate  
Order dated 12.2.1990 (pages 39-41). The impugned  
order of dismissal has been passed against the  
applicant after holding a departmental enquiry under  
Section 21 of the Delhi Police Act, 1978.

10

•

2. The allegations as seen from the show-cause notice (Annexure B) are as follows :-

" (i) This is a departmental enquiry u/s 21 of Delhi Police Act, 1978 against Const. Naresh Kumar No. 1508/W on the allegations that while posted at P.S. Kirti Nagar and was due back from C.L. on 7.12.88. Const. did not turn up for his duty. Therefore, he was marked absent vide D.D. No. 50-B dated 7.12.88 P.S. Kirti Nagar. Const. resumed his duty on 17.12.88 vide D.D. No. 21-B dated 17.12.88 after absenting himself wilfully and unauthorisedly for a period of 10 days 21 hours 30 mts. which is contravention of provision of rule 19(5) of C.C.S. (Revised Leave) Rules, 1972 and S.O. No. 111.

(ii) A telephonic call was received at about 10.30 P.M. at P.S. Rajouri Garden regarding a quarrel at House No. 311 Raghbir Nagar, New Delhi which was reduced in writing vide D.D. No. 21-A dated 15.12.88 P.S. Rajouri Garden and the D.D. was entrusted to S.I. Om Prakash for necessary action. S.I. returned to P.S. vide D.D. No. 8-A dated 16.12.88 vide which the S.I. has recorded a detailed report regarding compromise of Const. Naresh Kumar with a drug peddler Subhash. It has also been established that Const. Naresh Kumar No. 1508/W had consumed alcohol with one Tejinder Singh Sethi in B-III Block Raghbir Nagar and had visited the house of a drug peddler with ulterior motive. Const. Naresh Kumar had a quarrel with Subhash on the night of 15/16.12.88 and had later compromised with Subhash in the presence of Nathu Ram, Puran Lal and Smt. Sarla Chawla etc.

(iii) Const. Naresh Kumar No. 1508/W failed to deposit his Identity-Card in the 10th Bn. DAP on his transfer to West Distt. which was issued to him against Identity-Card No. 439 dated 15-10-86. The said Identity-Card slipped into the hands of the drug peddler Subhash (Sanshi) who took the benefit of the same in the Hon'ble Court at Tis Hazari, Delhi."

The findings of the Enquiry Officer were submitted on 29.5.1989 and a show-cause notice was given to the applicant on 14.6.1989 to which he submitted a reply on 4.7.1989 (Annexure C). Thereafter, the impugned order of dismissal was passed by the Deputy Commissioner

PS/

of Police, West District, New Delhi dated 27.7.1989.

3. The main grounds taken by Shri J.P. Verghese, learned counsel for the applicant, against the dismissal order are -

- (i) That this is a case of no evidence because the only evidence relied upon by the competent authority is that of the complainant, Subhash Sanshi;
- (ii) That the applicant had produced in his defence medical certificate about his illness which had not been examined;
- (iii) That a copy of the summary of allegations together with the list of witnesses had not been supplied to him;
- (iv) He admits having taken liquor at the residence of a friend on the occasion of his friend's, Tejinder Singh 'Sethi'/'Sodhi', son's birthday, which itself is not an offence as he was on leave on that day;
- (v) He had overstayed his sanctioned C.L. because of illness;
- (vi) He had not been told to deposit the Identity Card on his transfer from the 10th Bn. to the West District; and
- (vii) since the charges in (ii) and (iii) given in the <sup>allegations</sup> are cooked up and not true, the punishment is harsh.

4. The respondents, in their reply, have opposed the above grounds taken by the applicant as being contrary to the evidence and records in the case. Ms. Avnish Ahlawat, learned counsel for the applicant, also produced the original departmental proceedings file for our perusal and, in particular, the statements and signatures of the applicant showing that he has received the summary of allegations together with the list of witnesses on 19.4.1989. Later,

the applicant had also appeared before the Enquiry Officer on a number of occasions and since he did not admit the charges, the departmental enquiry had been conducted in accordance with the rules. The applicant had also cross-examined the prosecution witnesses and had also produced one defence witness. The learned counsel, therefore, contends that there is absolutely no ground which justifies the Tribunal interfering with the impugned order of the disciplinary authority. She referred to the evidences of PW III, Subhash Sanshi, P.W. IV Smt. Sarla Chawla, PW VII, Smt. Salochna wife of PW III and PW IX S.I. Chander Bhan to show that there was sufficient evidence of these independent witnesses to justify the findings of the Enquiry Officer and the Disciplinary Authority that the charges are proved against the applicant. The learned counsel also pointed out that even in the O.A. the applicant has failed to produce any medical certificate about his illness for which he had been absent after his sanctioned six days C.L. from 7.12.1988 to 17.12.1988. In the light of the evidence and the record in the case, Ms. Ahlawat, therefore, submitted that the conclusion of the competent authority was neither perverse nor arbitrary and the Tribunal ought not to interfere with the same.

5. We have carefully considered the arguments of both the learned counsel and the records in this case.

15/

6. The main allegation of the applicant that he had not been supplied the necessary documents by the respondents is totally negated by the records in this case as he has himself acknowledged receipt of the documents, including the summary of allegations together with the list of witnesses, after which he had also fully participated in the departmental enquiry proceedings. The fact that he has cross-examined the witnesses and presented his own defence witness shows that he has been given all reasonable opportunity to put forward his case before the punishment order was passed. The applicant's contention that because there were no witnesses to the fact that he had demanded a bribe from the complainant or other independent witnesses to the fact of his trying not to molest the complainant's wife are/sufficient to exonerate him of the other charges which have been held proved.

7. The disciplinary authority has given sufficient reasons and gone through the evidence in detail for coming to his conclusion which cannot be faulted. He has not been convinced with the explanation given by the charged constable as to why he has taken the route through the area of Raghbir Nagar from P.S. Rajouri Garden where he had encountered Subhash Sanshi, who was a drug peddler. The disciplinary authority has also not believed the applicant's submission that he had been forced to make a compromise with Subhash Sanshi by senior officers. The applicant has also not denied the fact

that he has not returned the Identity Card to the 10th Bn. DAP after his transfer. The disciplinary authority in his order has noted that since the applicant has put in about 7 years of service as Constable, he should have known that as per the existing procedure, he should have deposited the old identity card before proceeding on transfer. Apart from this, his identity card had been lost in the struggle with Subhash Sanshi which later resulted in facilitating the release of other drug peddlars on bail in some other cases pending in the criminal courts. Therefore, taking into account the totallity of the facts, the disciplinary authority had passed the order of dismissal. The Appellate Authority has also fully taken into account all the grounds taken by the applicant and after giving him personal hearing in the orderly room on 2.2.1990 dismissed the appeal.

8. In the facts and circumstances of the case given above, we do not find that any of the grounds taken by Shri J.P. Verghese, learned counsel for the applicant, has any force. The punishment order has not been passed merely on the evidence of the complainant and the disciplinary authority has gone through the other evidence before arriving at his conclusion. It is settled law that unless the conclusion of the competent authority is utterly perverse or arbitrary, this Tribunal cannot interfere or reappraise the evidence. The applicant has not cared to enclose the medical certificates

to show his illness even in the O.A. and his complaint that he had not been given the necessary papers is belied by the records. Therefore, we do not find any ground which warrants any interference from this Tribunal in the orders passed by the disciplinary authority and the appellate authority dated 27.7.1989 and 12.2.1990. Accordingly, the application is dismissed. There will be no order as to costs.

*Lakshmi Swaminathan*

(Smt. Lakshmi Swaminathan)  
Member (3)

*P. T. Thiruvenkadam*

(P.T. Thiruvengadam)  
Member (A)