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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O.A.No.198/90

New Delhi this 10th of June, 1994.

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

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

Shri Jaipal Singh,

s/o Sh. Lachhman Singh,

r/o 12/121, Kalyanpuri, 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 Building, IP Estate,
New Delhi.

3. Additional Commissioner of Police (Range),
Delhi Police Headquarters,
MSO Building, I.P. Estate, New Delhi.

4. Deputy Commissioner of Police/East District,
Vishwas Nagar, Shahdra, Delhi Respondents.

By Advocate Shri D.N. Goverdhan.

J U D G M E N T

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

In this application, Shri Jaipal Singh, a Constable, Delhi Police has impugned the order dated 21.2.86 (Annexure-D) dismissing him from service, which has been upheld in the appellate order dated 12.6.87 (Annexure-E).

2. The applicant along with Constable Durga Prasad and Constable Jagdish Prasad, were proceeded against departmentally on the charge that while posted at P.S. Seemapuri they consumed liquor on 31.5.83 and thereafter visited the shop of one Shri Hari Prasad Mishra and misbehaved

and manhandled ^{with} him when he demanded payment of cigarettes purchased from him. Thereafter, they teased a girl who was going to her house along with her brother, and they also tried to criminally assault her. When her brother tried to interfere, Constable Durga Prasad tried to assault him.

In the mean time, someone informed H.C. Sadhu Ram posted at Seemapuri Checkpost who went to the spot but when he came, the three Constables had run away.

3. The Enquiry Officer submitted his findings holding the three constables guilty of the charges. Agreeing with his findings, the Disciplinary Authority issued a show cause notice ^{proposing} ~~showing~~ dismissal of the applicant from service but the applicant did not submit his reply to the notice despite issue of reminders, upon which the applicant along with Constable Durga Prasad ⁱⁿ ~~was~~ dismissed from service vide impugned order dated 21.2.86, which was upheld in appeal.

departmental proceedings

4. Shri Grewal, for the applicant has argued that are vitiated because no preliminary enquiry was conducted as laid down in Rule 15(1) of the Delhi Police (Punishment & Appeal) Rules, 1980 and no prior approval of the Addl. Commissioner of Police was taken as per rule 15 of the said Rules. Shri Goverdhan, learned counsel for the respondents has correctly pointed out that no preliminary enquiry is required where a cognizable offence is alleged, and prior approval of Addl. Commissioner of Police for instituting the departmental proceedings is not required either. Furthermore, this plea was not taken during ^{the} departmental enquiry.

5. Shri Grewal has ^{also} argued that the applicant was not posted under the administrative control of the Disciplinary Authority but was posted under the Armed Police, and hence the Disciplinary Authority had no power to punish him. The applicant did not raise this plea at any stage during the departmental enquiry and merely asserting that he was not under the administrative control of the Disciplinary Authority, is not sufficient. The respondents have stated that the applicant was posted under the Administrative Control of the Disciplinary Authority who passed the order dismissing him from service and we have no good reason to doubt this.

6. Lastly, it has been argued by Shri Grewal that the punishment is too harsh. It is well settled that the Tribunal cannot go into the quantum of punishment in a departmental proceedings unless the finding is utterly perverse or is based on no evidence, that is not the case here.

7. In the result, the application fails and is dismissed. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

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