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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. No.2406/90

NEW DELHI THIS THE 17TH DAY OF JANUARY, 1995.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)  
HON'BLE SHRI B.K. SINGH, MEMBER (A)

Shri Krishan Kumar,  
S/o Late Shri Kehri  
R/o Quarter No.392, Police Colony,  
Ashok Vihar,  
DELHI-32.

...Applicant

(By Advocate :Shri M.K. Giri )

VERSUS

1. Lt Governor of Delhi, through  
The Chief Secretary,  
Delhi Administration,  
Delhi.
2. Commissioner of Police, Delhi  
Delhi Police Headquarters  
M.S.O. Building, I.P. Estate,  
NEW DELHI.
3. Addl Commissioner of Police,  
Security & Traffic, Delhi  
Delhi Police Headquarters,  
M.S.O. Building, I.P. Estate,  
NEW DELHI.
4. Dy Commissioner of Police, Security  
Copper Nicus Marg,  
NEW DELHI. ...Respondents

(By Advocate : Shri Amresh Kumar)

JUDGEMENT (ORAL)

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

The applicant has been serving in Delhi Police w.e.f. 10.7.1975. On 26.1.1984 i.e. on the occasion of Republic Day, one person Viz Shri Bhim Singh was apprehended while entering the area which was restricted only to pass-holders. A civilian Shri Bhim Singh, belonging to village Prahaldpur was having a



Tri-angular Identity Card bearing name Krishan Kumar. The charge against the applicant <sup>was</sup> framed on the basis of summary of Allegations dated 3.5.1984. After examining the Prosecution Witnesses of the Police Sri Bhagwan, Const. Ram Kishan, Const. Nahar Singh, Inspector Balbir Singh, DCP Mrs Kawaljit Deol that while posted in Security on 26.1.84 he was in possession of an Identity Card of Traffic Unit, attempted to gain entry into the enclosures surrounding Raj Path and illegally secured a triangular duty pass for an unauthorised civilian named Shri Bhim Singh of village Prehladpur Delhi and tried to smuggle him into a security area at Republic Day Parade.

2. The applicant examined the DWs ASI Mahi Pal Singh, Const. Rattan Singh, DW-3 Shri Bhim Singh of village Prahladpur, i.e. the Civilian who alleged to have tried to smuggle himself into the restricted area of Republic Day Parade. This witness also stated that he was present at Amrawati on 26.1.1984. The Enquiry Officer held the charge established against the applicant.

3. On the basis of the findings of the Enquiry Officer holding the charge ~~was~~ proved against the applicant, The disciplinary authority, Dy Commissioner of Police by the <sup>Order</sup> dated 24.1.86

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imposed the punishment of withholding one increment temporarily for one year only which was confirmed by the Addl Commissioner of Police (S&T) Delhi, vide order dated 8.4.86 when the applicant preferred an appeal. The applicant also preferred a revision petition to Commission of Police, Delhi which was also considered and rejected vide order 28.8.86.

4. Aggrieved by the aforesaid order the applicant filed this application on 19.11.90. This application was admitted and the respondents contested this application stating that there was a serious misconduct alleged against the applicant for which the departmental enquiry held under Section 21 of the Delhi Police Act, 1988 and the Enquiry Officer, conducted the enquiry and submitted its report on 8.11.85 following the procedure prescribed under Rule 16 of the Delhi Police Punishment Rules 1980 giving adequate opportunity to the applicant regarding his Defence and submitted the findings against the applicant which was accepted by the Disciplinary Authority, on the basis of which punishment was imposed which was upheld by the Appellate as well as Disciplinary authority. The respondents further submitted that the applicant has not adduced

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any fresh evidence to rebut the charge levelled against him, and thus the application is devoid of merit.

5. The applicant also rebutted these averments by filing a rejoinder but only reiterated the facts already averred in the Original Application.

6. We have heard Shri M.K. Giri for the applicant Shri M.K. Gupta counsel appearing for the respondents.

7. The first contention of the learned counsel for the applicant is that the charge framed against the applicant are baseless and that there was no evidence to frame any charge. In this connection, he has referred to the authority of the Hon'ble Supreme Court reported in 1986 (3) SCC Page-544: in case of Swai Singh Vs State of Rajasthan. The learned Counsel has read out the charge and same is reproduced below :-

" I, P.N. Malhotra, Inspector Police, Security New Delhi charge you constable Krishan Kumar No.350/Sec. under section 21 of the D.P. Act, 1978, for gross misconduct and remissness in the discharge of your official duty in that while posted in security of January 26, 1984, you being in possession of an Identity Card of Traffic Unit, attempted to gain entry into the enclosures surrounding Raj Path and illegally secured a triangular duty

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pass for a unauthorised civilian named Bhim Singh of village Prahladpur, Delhi and tried to smuggle him into the security area of Republic day parade."

8. In fact, when either in a Departmental proceedings or in any other trial a delinquent or accused is to be infomed in clear & unambiguous terms the acquisition or allegations he has to meet in the said enquiry or trial, there is no two opinions that a person who is to stand trial must be clearly informed as to what is the misconduct or prohibited Act he has committed which has resulted in breach of any rule, service or common law necessitating the trial or enquiry against him. The word vagueness itself means that the clear understanding is not being conveyed to a person who is likely to face enquiry resulting in certain punishment against him. The charge quoted above is clear in terms that the applicant was having identity card of traffic unit and that there was a Triangular card by which he wanted to smuggle one Shri Bhim Singh of Village Prhladpur. In fact, the applicant during the course of the enquiry has cross-examined the witnesses in that light also produced evidence by producing three defence witnesses. In such a situation it cannot be said that the charge framed against the applicant was not properly understood or the charge did not convey sense and meaning for which the applicant is said to have committed misconduct according to the Delhi Police Act, 1978.

9. The next contention of the learned counsel for the applicant is that the findings of the Enquiry Officer is perverse. We have gone through

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the evidence produced before the Enquiry Officer and the report of the Enquiry Officer. In fact, we would have been handicapped in going through it, if the learned counsel for the applicant has not placed before us the file, normally, we are expecting the Counsel for the respondents and Parocar approaching the court to place the departmental file for perusal of the Bench. But this has not been done. But since we have heard this case earlier when Shri TS Grewal was the counsel for the applicant so we do not like to adjourn it further and obviously for the reason that the relevant record of the enquiry was made available by the learned counsel for the applicant himself.

10. We find that the Enquiry Officer has considered the testimony of the witnesses examined by the authorities and he scrutinised it and has drawn conclusion on the basis of the testimony which can be easily adduced by a reasonable man but perverse finding is that to which no reasonable man can arrive at. In view of this, we do not find that the findings of the Enquiry Officer is at all perverse.


11. Even if according to the learned counsel the testimony of some of the witnesses has not been taken into account in a better spirit, in that case the Tribunal cannot sit as an Appellate Authority and has no jurisdiction of judicial review to re-appreciate the evidence even though on that appreciation another conclusion may be possible. The learned <sup>respondents'</sup> counsel has cited

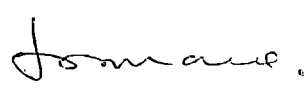
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the Authority in case of Government of Tamil Nadu & Ors Vs Raja Pandian reported in JT 1994 (7) Page 492 We have considered <sup>the law which</sup> ~~this fact~~ and laid down the scope under which the Court or the Tribunal can interfere in the disciplinary departmental enquiry vis-a-vis <sup>validity of</sup> appreciation of the evidence or the charge or the quashing of the chargesheet or regarding the quantum of punishment. Coming to law laid down by the Hon'ble Supreme Court in this connection, the findings given by the Enquiry Officer cannot be interfered with.

12. No other argument has been advanced by the learned counsel for the applicant. The application therefore is dismissed being devoid of merit leaving the parties to bear their own costs. Relevant documents/papers submitted by the learned counsel for the applicant is taken on record.

  
(B.K. SINGH)  
MEMBER (A)

  
(J.P. SHARMA)  
MEMBER(J)

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