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Central Administrative Tribunal  
Principal Bench, New Delhi.

O.A.No.2495/90

New Delhi this the 30th Day of March, 1995.

Hon'ble Mr. J.P. Sharma, Member(J)  
Hon'ble Mr. B.K. Singh, Member(A)

Shri Bhawani Singh,  
S/o Sh. Mata Din,  
C/o Sh. S.K. Sharma,  
Advocate, F-122/23,  
Pandav Nagar,  
Delhi-92.

Applicant

(through Sh. M.K. Gupta, advocate)

versus

1. Lt. Governor,  
Delhi Administration,  
Delhi.
2. Addl. Commissioner of Police(Operations),  
Delhi, Police Head Quarters,  
Indraprastha Marg,  
New Delhi.
3. Deputy Commissioner of Police,  
Police Control Room, Delhi.  
6/90, IIIrd Floor, PHQ,  
Indraprastha Marg,  
New Delhi.

4. Asstt. Commissioner of Police(Admn),  
Police Control Room,  
PHQ, Indraprastha Marg,  
New Delhi.

Respondents

(through Ms. Anita, proxy counsel for Sh. Surat  
Singh, advocate with S.I. Raghu Nath)

ORDER(ORAL)

delivered by Hon'ble Sh. J.P. Sharma, Member(J)

The applicant, a Sub-Inspector in Delhi Police has investigated a case of FIR No.279 dated 15.5.82. He has written the case diary in his own hand. He also submitted a chargesheet against the accused Sh. Lachhman Dass. A departmental enquiry was initiated under Section 21 of Delhi Police Act, 1978. The criminal case came for trial before the criminal court and by the judgement dt. 25.4.89, the Chief Metropolitan Magistrate, Delhi acquitted the accused Sh. Lachhman Dass. After this acquittal by the Criminal Court by the

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order dated 13.1.1990, it was directed that a disciplinary departmental enquiry should be initiated against S.I. Bhawani Singh. A summary of allegations was served upon the applicant in March, 1990 that he has made certain cuttings in the C.D. of 15.5.82 as well as of 15.6.82. He also tempered with the statement of Duli Chand (now deceased) and as such he did not record the clear statement of Duli Chand under Section 161 Cr. P.C. On the basis of the summary of allegations, Asstt. Commissioner of Police Sh. Ganga Sawarup proceeded with the departmental enquiry under Delhi Police and Punishment Rules, 1980 and examined Sh. Paras Nath, ACP, Head Constable Raj Vanshi, Sh. Lachhman Dass accused, Head Constable Sh. Roshan Lal and thereafter charged the applicant that he has made certain cuttings in the C.D. that amounted to misconduct with ulterior motives in the discharge of the official duties. The delinquent did not produce the defence except that he submitted a statement of defence. After considering the same, the Enquiry Officer did not record any finding whatsoever on the charges framed against the applicant by observing that the said cuttings/additions mentioned above had no impact on the merit of the case and these cuttings/additions are unmindful and without any specific purpose appears only because S.I. Bhawani Singh is a new entrant and it was his first case of investigation. The Disciplinary Authority vide its order dt. 8.6.90 considered the findings of the Enquiry Officer Sh. Ganga Swarup, ACP but did not agree with the same and the reasoning of disagreement are "the cuttings/interpolation show that the I.O. had the intention of causing unlawful and undue harm to the person whose name was included in the CDs."

After recording this note of dissent, a punishment was imposed on the applicant by reducing his pay from Rs.1820/- to Rs.1760/- p.m. and that he would not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will have effect for postponing his future increment. An appeal against this order was considered by the Addl. Commissioner of Police who rejected the same vide its order dated 15.10.90 and upheld the punishment imposed upon the applicant by the Disciplinary Authority. Aggrieved by the same, the applicant has filed this application in November, 1990 praying for quashing of the aforesaid orders with all consequential benefits.

On notice the respondents contested this application. The facts are not disputed but it is said that the applicant had changed certain words written by him in C.D. with the intention to implicate Lachhman Dass instead of recording his clear statement under Section 161 Cr.P.C. He also added word 'Un' before 'fit' making it unfit in para '8' of C.D.No.1. It is stated that the Enquiry Officer had given due opportunity to the applicant and examining the evidence the Disciplinary Authority has given the reasoning and imposed the punishment.

We have heard the learned counsel for the applicant yesterday and since the learned counsel for the respondents was not available yesterday, we adjourned the case for hearing today. Today Ms. Anita appears as proxy counsel for respondents with departmental

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representative S.I. Raghu Nath and produced the records. We have also seen the departmental files including the personal file of the applicant.

The scope of interference of the Tribunal or of the Court in departmental disciplinary enquiry is limited only to the extent to find out as to whether there is a case where there is evidence available on record to justify the imposition of punishment or that the finding arrived at is untenable because it is perverse and cannot be based on the touch stone of reasonings or that any reasonable person cannot arrive at such finding. The learned counsel for the applicant has highlighted certain facts by reading out the statement of witnesses. The learned counsel also referred to the reports submitted by Sh. Ganga Sawarup, ACP who did not record any finding that the charge framed against the delinquent has been established. We have perused the same. The charge against the applicant is that he has made certain cuttings in para-9 of C.D. 1 dt. 15.5.82 where 'fit' has been made as 'unfit' and in the statement of Duli Chand dt. 15.6.82 where certain words have been changed. However, the basic point to be seen in this case is that the C.D. was prepared in duplicate and the original is sent to authorised Police office. It is admitted by the parties that there is no overwriting or cutting in original but the duplicate had cuttings retained by the investigation officer and submitted subsequently for copies. In this duplicate, there are certain writings which we have seen and read but the administration has to establish that when they took the

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matter 8 years after the writing of the diary, when the applicant was no more in possession of the said case diary register or the relevant papers and the cuttings were observed thereafter, much after the acquittal of the accused Lacchman Dass in April, 1989, the administration has to discharge burden either by examining witnesses or by drawing inferences from proved established facts that the applicant can only be the person who had the occasion and made certain cuttings in the CD. This could have been done by the hand-writing expert or the person who was incharge of the said department at the relevant time or by the appointed prosecutor who appeared on behalf of State in the criminal case against Duli Chand. When we judged the enquiry officer's report and the order passed by the Disciplinary Authority, we are unable to convenience ourselves to the fact that there is evidence worth the name to arrive at the finding which has been deduced by the Disciplinary Authority by a note of dissent to the findings of the Enquiry Officer. The Enquiry Officer has avoided the issue of holding him guilty of the charge either by considering him a novice or that he could not find sufficient reasons to hold him guilty of the charge. In any case if Disciplinary Authority did not agree with the findings of the Enquiry Officer have to give reasons which by themselves should be of such a nature as to make out a case and to arrive at a conclusion that the charges are established. The Disciplinary Authority do not say anything about the charges. He only makes a note which does not meet the requirement of natural justice as well as the law laid down in precedents by the Hon'ble Supreme Court. We have gone through the latest judgement of the Supreme Court in

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case of Govt. of Tamil Nadu Vs. A. Rajapandian reported in JT 1994 Vol.7 SC 492 where the Supreme Court allowed the appeal of the State of Tamil Nadu on a ground that the evidence was appreciated by the High Court of Madras. Here, we do not find evidence at all, we are judging the nature of the evidence on the touch stone not of reliability but on the sufficiency where a reasonable person can arrive at the conclusion considering that evidence which has been considered by the Enquiry Officer/Disciplinary Officer, to give a verdict of guilt against the delinquent. This, therefore, amounts to case of no evidence against the applicant. There is nothing on record to show that the cutting has been done by the applicant; there is no circumstance to justify that the documents were in possession of the applicant and no inference can be drawn that he can be a person who could have made cuttings in the case diary; that the matter taken up after 8 years about the writing of the CD cannot be decided in the manner because the investigation is a routine process and judging by the calibre of the person as the applicant was at that time. Nobody can recaptulate or say in writing what was disclosed by a witness during investigation. The judgement of the criminal court does not make an adverse comment on the C.D. or the manner of the investigation rather the judgement was to show that the witnesses did not depose against Sh. Lachhman Dass and stated even to the extent that in the court he has not been identified as the assailant Lachhman Dass who has thrown acid on the deceased Duli Chand.


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In view of the above facts and circumstances, having gone through the departmental files and the various averments made in the counter-affidavit by the respondents, the O.A. is allowed. The impugned order is quashed and set aside. The order reducing the pay scale by one stage from Rs.1820/- to Rs.1760 p.m. shall be restored forthwith and his pay shall be refixed granting increment as due to him and applicant shall be entitled to reimbursement of the same. The respondents are directed to comply with the directions within a period of three months from the date of receipt of this order.

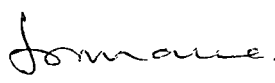
The proposed punishment shall not be considered as a hurdle in his future promotion that may also be reviewed if necessity arises.

Parties to bear their own costs.

The departmental files are returned to departmental representative.

  
(B.K. Singh)  
Member(A)

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(J.P. Sharma)  
Member(J)