

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.№.2550/90

Dated this the 31st of January, 95

Hon'ble Shri N.V.Krishnan, Vice Chairman(A)
Hon'ble Dr. A.Vedavalli, Member (J)

Fateh Singh
s/o Shri Risal Singh
r/o 19/73, West Moti Bagh,
Sarai Rehilla,
Old Rohtak Road,
Delhi 110 035

..Applicant

(By Advocate: Shri NS Bhatnagar.

Versus

1. Union of India through
Additional Commissioner of Police,
Operations, Police Head Quarters,
I.P.Bhawan, New Delhi.

2. Deputy Commissioner of Police,
Police Control Room,
Police Headquarters,
I.P.Bhawan, New Delhi.

..Respondents

(By Advocate: Shri Raj Singh)

ORDER (Oral)

Hon'ble Shri N.V.Krishnan, Vice Chairman(A).

The applicant is aggrieved by the Annexure 'D' order dated 13-8-90, by which he has been dismissed from the police force with immediate effect under Rule 11 of the Delhi Police (Punishment & Appeal) Rules, 1980.

2. When the matter came up for final hearing today, the learned counsel for the applicant pointed out that in the order of dismissal, there are references to 5 criminal cases. but, as a matter of fact, the action under Rule-11 was taken in respect of the last case under section 92/93/97 of the Delhi Police Act, in respect of which, DD No.18A dated 24-8-88 was made. In that criminal case, he was sentenced to a fine of Rs.50/- by the Metropolitan Magistrate, Tis Hazari Court, Delhi.

3. It is further stated that by the Annexure-E order, a Departmental Proceeding was held and the applicant was punished by the order dated 19-4-90. The basis of this punishment is the punishment in the criminal cases referred to therein, which includes all the 5 cases referred to in the An.D order also.

4. The learned counsel also pointed out that he had filed a revision against his conviction in the last case which has been allowed by the Court of the Additional Sessions Judge, Delhi by the order dated 19-8-93, a copy of which has been filed with the D.A. The applicant was a petitioner in that revision case and was acquitted of the charges. The learned counsel draws our attention to the provisions of Rule-11(1), which directs that no order dismissing or removing the police official from service under Rule-11 shall be passed till the result of the first appeal that may be filed by the police officer, is known.

5. The learned counsel for the respondents admit that the applicant filed a departmental appeal against the impugned Annexure 'D' order. The Annexure 'D' order itself states that the applicant had not intimated to the department about the filing of his appeal against his conviction. The order dismissing his departmental appeal is at Annexure-F. That does not indicate whether the applicant informed the competent authority that he was intending to file either an appeal or revision against conviction in the last criminal case.

6. We are of the view that the position of the rule is quite clear. Action under Rule-11

shall not be taken until the appeal against conviction is disposed of. In our view, this also includes any revision against the conviction in the criminal case. However, if the applicant had brought to the notice of the competent authorities in time that he was intending to file an appeal/revision, perhaps, these authorities might have taken some remedial action even earlier in respect of the An.D order.

7. In the circumstances, we are of the view that the order of dismissal can be construed to be rested only on the circumstances leading to the conviction in the last criminal case. In that case, the applicant has subsequently been acquitted. Therefore the order of dismissal (An.D) and the An.F order of the appellate authority are quashed. We direct that the applicant should be reinstated within one month from the date of receipt of this order. The question as to how the period from the date of his dismissal to the date on which he is reinstated should be treated and what emoluments should be paid during this period, are matters which we leave to the disciplinary authority for a decision in accordance with law, which should be taken and communicated to the applicant within three ~~days from~~ ^{months} days from his reinstatement.

8. The O.A. is disposed of as above, with no order as to costs.

A. Vedavalli
(Dr. A. VEDAVALLI)
Member (J)
/kam/

N. V. Krishnan
31.1.95
(N. V. KRISHNAN)
Vice Chairman (A)