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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.2687/90
M.A.No.3212/90

NEW DELHI THIS THE 20TH DAY OF DECEMBER, 1994.

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

Shri Gajender Singh
S/o Shri Jaipal Singh,
C/o Tonny Motor Training School,
Nangloi, DelhiApplicant

(By Advocate : Shri A.S. Grewal)

VERSUS

1. Lt Governor, Delhi, THROUGH
Chief Secretary,
Delhi Administration,
Delhi.
2. Commissioner of Police Delhi,
Delhi Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi.
3. Additional Commissioner of Police,
Southern Range, New Delhi.
Delhi Police Headquarters
M.S.O. Building,
I.P. Estate, New Delhi.
4. Dy Commissioner of Police,
West District,
Police Station Rajouri Garden,
New Delhi,Respondents

(By Advocate : Shri Girish Kathpalia)

JUDGEMENT (ORAL)

Shri J.P. Sharma, Member (J)

The applicant was posted at Punjabi
Bagh Police Station and on 19.05.1987
he was deputed
on patrolling duty from 4 p.m. till 11 p.m.
along with one Constable Surender Singh

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on Motor-cycle. The applicant was a Motor-cycle rider.

2. A summary of allegation was served upon the applicant on the basis of departmental enquiry initiated vide Order dated 4.6.87 wherein it is alleged that the applicant returned earlier at the Police Station without performing the duty, which was upto 11 P.M. on 19.5.87, at that time S.I. Harpal Singh was the Duty Officer, and when he questioned the reason of his early arrival at the Police Station, the applicant did not make any satisfactory explanation and, he (SI Harpal Singh), directed them to complete their patrolling duty upto the prescribed period i.e. 11 P.M.. However, the applicant returned immediately after 5 minutes, and again when questioned by SI Harpal Singh, the applicant told in an irritated manner to the Duty Officer to lodge a complaint against him. The Duty Officer, then lodged a report in this regard vide D.D.No.50-B dt. 19.5.87 P.S. Punjabi Bagh, at 10.20 P.M.

3. Next morning on 20.5.87, the applicant said to have abused S.I. Harpal Singh for having made entry ^{against him} in the D.D.

4. On the basis of summary of allegations Surjeet Singh, Inspector, of D.E. Cell framed charges against the applicant and S.I. Harpal Singh, examined Six witnesses on behalf of the department and two witnesses were

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examined on behalf of the applicant as Defence Witnesses. The Inspector framed the charges on the basis of summary of allegations and held that the charge has been proved and submitted findings to the disciplinary authority who gave a Show-Cause Notice to the applicant and after seeing to the explanation on the aforesaid Show-cause-notice by the Order dated 26.9.88, the Dy Commissioner of Police imposed the penalty of forfeiture of three years approved service permanently with reduction of pay. The appeal against the aforesaid order was also rejected by Addl Commissioner of Police by the order dated 16.03.89. The applicant has also preferred a representation to the Commissioner of Police but till the filing of this Application in the Tribunal, he did not receive any reply and in December, 1990 the application was filed after correction, praying for the grant of the relief that the impugned order of punishment be quashed and the applicant be given the benefits of the service, restoring his pay at the stage at which he was at the relevant point of time i.e. Rs.1050/- P.M. He also prayed for consequential benefits and for treating

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the period of suspension from 20.5.87 to 18.8.87 to be treated as period spent on duty.

5. The respondents in their reply opposed the grant of relief prayed for stating that all the P.Ws have corroborated the allegations levelled against the applicant of early arrival at the Police Station Punjabi Bagh and also of abusing SI Harpal Singh on the morning of 20.5.87. The applicant has been given adequate opportunity in the departmental enquiry. The applicant has no case and the Application be dismissed.

6. The applicant has not filed any rejoinder against the above reply of the respondents.

7. We heard Shri A.S. Grewal for the applicant and Shri Girish Kathpalia for the respondents. Though it is expected of the respondents to place before the Bench their record of the enquiry, learned counsel for the respondents, however, pointed out that he received the brief only recently and, in spite of his instructions the Parocar

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of the department has not brought the file. We can only observe that the respondents should be more vigilant where the service of an individual is involved. However, we have been benefited by the record maintained by the applicant's counsel and from his own file, he has read out the statements of the applicant, examined by the respondents. In view of this, in spite of the handicap created by the respondents, we are disposing of this application.


8. The first contention of the learned counsel is that the witness Const. Surrinder Singh ~~Singh~~ PW-3 has not stated about the incident as given out in the summary of allegations. He has given theory that while on patrol duty, there was some damage to the motorcycle as the chain of the motorcycle gave way, and he came to the Police Station Punjabi Bagh, where S.I. Harpal Singh after convincing Constable Gajender Singh sent for patrol duty for the remaining hours left on that day, upto 11 P.M. In fact, S.I. Harpal Singh is an aggrieved person who had been abused by the applicant, Constable in rank. It is not expected that a person of the rank of Inspector will falsely involve

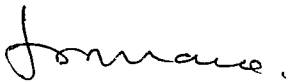
a subordinate Constable in an incident, where the person of the rank of Inspector has to suffer ignominy. Nobody will say that he has been abused, unless somebody at least close to that incident has transpired. An abuse is to call a person bad^{names} and which may differ in gravity and in intensity, but in a Police Force, it is expected that the discipline at the grass-root level is more essential otherwise the 'Command cannot be obeyed' which will make a mockery. SI Harpal Singh was discharging his official duty and did not issue any such instructions for his personal gains. There is nothing to dispute that SI Harpal Singh has any with the applicant nor enmity that has been alleged. Nor any prejudicial pre-harboured notions^{by the SI Harpal Singh} against the constable has been alleged. Merely because D.W. have stated against the incident, could not shatter the testimony of the SI Harpal Singh. In any case the Tribunal cannot sit as an appellate authority. The Tribunal has to see that the some^{legal} evidence on which the findings are arrived at is possible on the standard of judging^{by} a reasonable man. The matter has been perused thoroughly by the disciplinary authority as well as by ^{the} Appellate Authority. Thus

we find that there ^{is} material sufficient before the Enquiry Officer to reach a finding and that there is an evidence which do establish a misconduct on the part of the applicant.

9. The applicant has also been given a hearing by the S.H.O. in Orderly Room and, has also been given a hearing on Show-cause notice issued by the disciplinary authority. He has been given due opportunity at every stage of the proceedings. His defence has been properly scrutinised and scanned. We do not find any case in which interference by this Tribunal is required.

10. The application, therefore, is dismissed as being devoid of merit, leaving the parties to bear their own costs.


(B.K. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)

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