

TWO  
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. No. 2708/90

New Delhi, dated this day the 10th May, 1995

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

Shri Ishwar Lal s/o Shri Ram Nath  
Head Constable, 0/0 Deputy  
Commissioner of Police,  
Police Control Room, Delhi. .... Applicant.

(By Advocate Shri Mahesh Srivastava)

vs. (but not present)

1. Union of India through:  
Secretary, Ministry of  
Home Affairs, Govt. of India,  
New Delhi.

2. Delhi Administration, through  
Chief Secretary, Delhi Adminn,  
15 Rajpur Road, Delhi.

3. Lt. Governor, Delhi Adminn.,  
Rajniwas Marg, Delhi.

4. Commissioner of Police,  
Police Control Room, Delhi

5. Deputy Commissioner of Police  
(Traffic), Delhi. .... Respondents.

(By Advocate Shri B.S. Oberoi proxy for Shri  
Anoop Bagai)

ORDER (ORAL)

The applicant has filed this O.A. aggrieved  
by the impugned order against him, in which, ultimately,  
a penalty of reducing him from the rank of Asst. Sub-  
Inspector to the rank of Head Constable has been given

2. The brief facts are as follows:-

The applicant was directed to put up a draft of  
certain orders of transfer by the Addl. D.C.P.(T),  
Shri Upadhyay, on the basis of specific instructions  
given to him. He got prepared such a draft which,  
however, was found to be at variance with the directions  
given by the Addl. D.C.P. in many respects. Accordingly,  
disciplinary proceedings were initiated and by the

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order dated 31-5-88 he was dismissed from service (Ann-D) He preferred an appeal which was also dismissed by Annexure-F order dated 1-9-88 by the Additional Commissioner of Police. Another ~~revision~~ was preferred to the Commissioner of Police which was also rejected by the order dated 19-1-1988(Ann-H). He thereafter made a representation to the Lt. Governor, Delhi and on consideration of that representation, the Lt. Governor decided to reduce the penalty of dismissal to reduction in rank to that of a Head Constable. The applicant was further informed by Annexure 'B' that the suspension period and subsequent dismissal period will be treated as the one of leave of the kind due to him. It was further decided that the operative period of penalty will last for period of three years.

3. It is against these orders that this O.A. has been filed. It is stated that though there was an error, which was detected even before the issue of the transfer orders, there was no intention to deliberately tamper with the transfer orders and it was without any motive to make unlawful gain. His fault was that he did not compare the typed copy before he put his signature to it. It is not a misconduct. He further states that in the Depttl. <sup>a Enquiry</sup> ~~Examination~~, case, rule 16(iii) has been violated as the witnesses were not examined in his presence and that there was violation of the principles of natural justice by appointing an inquiry officer who was subordinate to the authority who ordered the departmental inquiry. Allegation was also made that the inquiry was not conducted properly. It is also <sup>alleged</sup> asserted that a copy of the inquiry report was not supplied to the applicant before awarding the punishment.

4. The respondents have filed a reply contesting the allegations made. In the absence of the applicant or his counsel we have heard the learned counsel for the respondents.

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(b)

5. It is not the applicant's case that the allegations have no basis. In the entire record before us, he does not deny that he was called by the Additional D.C.P. who gave him instructions about transfer. It is also admitted that the order put up for signature was not in conformity with the order given. We do not see how the applicant can escape from his responsibility. Therefore, the guilt is fully established.

6. His only defence is that it was unintentional and it was without unlawful gain to him. That is a matter <sup>(2) Quantum of</sup> for consideration for punishment.

7. The irregularities pointed out are of no consequence. That is also true of the failure to give a copy of the Enquiry Officer's report to the applicant, even though there is a provision to supply the report in Rule(xii) of the Delhi Police (Punishment & Appeal) Rules, 1990. The Supreme Court has held in Managing Director, E.C.I.L. versus B. Karunakar that in every case, it has also to be examined whether any injustice has resulted from the non-supply of the Enquiry Officer's report (1993(6)JT(1)SC). That principle would also apply where statutory rules require supply of a copy of the report (Kishan Lal versus State of J&K) 1994-27 ATC 590 SC). We are of the view that, as the facts alleged have been admitted, subject to certain explanation, no injustice was caused by the non-supply of the Enquiry Officer's report.

8. Therefore, it is clear that there was a failure to perform a duty entrusted to the applicant properly. This is the most charitable view that could be taken. It is, perhaps, on <sup>in this</sup> basis that the Lt.Governor reduced the punishment from dismissal to reduction in rank. We do not see anything seriously wrong or disproportionate to the <sup>delinquency</sup> ~~in~~ in this order.

(17)

9. Hence we do not find any merit in this OA.  
It is dismissed.

AKelvurthi

(DR. A. VEDAVALLI)  
MEMBER (J)

N.V.KRISHNAN

(N.V.KRISHNAN)  
VICE CHAIRMAN (A)

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