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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.369 of 1990

This 11th day of August, 1994

Hon'ble Mr. D.L. Mehta, Vice Chairman (J)
Hon'ble Mr. B.K. Singh, Member (A)

Karan Singh,
C/o Shri Prem Chand Gulia,
House No.561/2, Chiragh Delhi,
New Delhi-15.
By Advocate: Shri A.S. Grewal

..... Applicant

VERSUS

1. Lt. Governor of Delhi, through:
Chief Secretary,
Delhi Administration,
Delhi.
2. The Commissioner of Police,
Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi.
3. The Additional Commissioner of Police,
(Operation), Police Headquarters,
MSO Building, IP Estate,
New Delhi.
4. The Deputy Commissioner of Police,
Police Control Room,
Delhi Police Headquarters,
MSO Building, IP Estate,
New Delhi.

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Respondents

By Advocate: Shri O.N. Trishal

O R D E R (Oral)

(Hon'ble Mr. Justice D.L. Mehta, VC)

Heard the learned counsel for the parties.

2. The applicant was charge sheeted for taking a bribe of Rs.20/- from one Shri Madan Lal, Krishna Nagar, Delhi, who was carrying buffaloes in a truck. There is additional charge that he also gave beating to the co-passenger of Madan Lal. A Departmental Enquiry

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was conducted and after considering the report of the I.O., the Deputy Commissioner of Police, Delhi who was the disciplinary authority, passed the order of punishment which was modified by the appellate authority, Additional Commissioner of Police, Delhi vide order dated 25.7.89. The appellate authority was of the view that the money was passed on to the appellant and he has not been able to refuse this charge. This finding has been given by him after considering the material on record and the facts and circumstances of the case. However, he reduced the penalty taking into consideration the amount of bribe was only Rs.20/- and held that the forfeiture of two years approved service permanently seems to be harsh. He modified the penalty and passed order as under:

"I feel that forfeiture of two years approved temporarily for a period of three years entailing reduction in his pay should meet the ends of justice!"

3. ^{Benig} Having ^{being} aggrieved by the ~~orders of~~ disciplinary/ appellate authorities, the applicant preferred this OA and has prayed that the order of punishment passed by the D.C.P., Delhi (disciplinary authority) dated 30.3.89 and order dated 25.7.89 passed by the appellate authority should be quashed.

4. The learned counsel for the applicant has invited our attention to the Delhi Police (Punishment & Appeal) Rules, 1980. He submitted that under Rule 15

6


of the said rule ordinarily the record of the preliminary enquiry cannot become part of the final enquiry. Preliminary enquiry is conducted only with a view to establish the nature of default and identity of defaulter, to collect prosecution evidence, to judge quantum of default and to bring relevant documents on record to facilitate a regular departmental enquiry. Sometimes the evidence of the witness recorded in the preliminary enquiry ^{has} have to be taken on record if the person is dead or is not traceable. Much depends on facts and circumstances of each case. The learned counsel for the applicant has neither produced final report of the I.O. nor raised any objection before I.O. to substantiate the contention that the evidence should not have been brought on record. He wants to say that the statement of the witness has been considered and it was taken on record. From the preliminary record, we do not find under what circumstances it was taken unless we go through the report of I.O. Ordinarily, any objection raised in the memo of appeal, objection raised during the enquiry or objection raised during the disciplinary proceedings before the disciplinary authority, are produced in the OA. We cannot compel the respondents to produce the relevant documents to prove the case of the applicant. In the light of non-production of

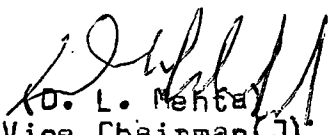
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relevant documents by the applicant, his case cannot be considered. The burden lies on the applicant, not on the respondents. There is nothing on record to differ with the view taken by the authorities concerned against the applicant.

5. In the facts and circumstances of the case, we do not find any force in the OA and the same is dismissed. No costs.


(B. K. Singh)
Member(A)


(D. L. Mehta)
Vice Chairman(J)

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