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In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. DA-430/90

Date: 27. 7. 2003

Shri Ram Pal Singh Applicant

Versus

Delhi Admn. Respondents

For the Applicant Mr. J.P. Verghese, Counsel

For the Respondents None

CORAM: Hon'ble Mr. J.P. Sharma, Member (Judl.)
Hon'ble Mr. N.K. Verma, Administrative Member.

1. To be referred to the Reporters or not? 70

(Judgement of the Bench delivered by Hon'ble
Mr. J.P. Sharma, Member)

Constable Ram Pal Singh was posted at P.S. Shakarpur on 26/27 September, 1988. He was served with a summary of allegations that as Constable in Police Force, he harassed Shri Tara Chand, son of Shri Bihari Lal, resident of Vijay Chowk, Laxmi Nagar, New Delhi, and demanded Rs. 2,000/- for not involving him in a criminal case and later agreed to accept Rs. 500/-. Accordingly, a place near Gola Property Dealers, Shakarpur, was fixed for collection of the settled amount on 27.9.1988. Shri Tara Chand approached the Vigilance Branch and on his complaint, a trap was laid. In that trap, Inspector R.C. Sapra, accompanied by other persons, recovered a sum of Rs. 500/- and caught the applicant

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accepting a sum of Rs.500/- at 3.00 p.m. The applicant filed a reply on the basis of which the departmental enquiry was initiated against him under Section 21 of the Delhi Police Act, 1978. He was also placed under suspension. Shri Tak Chand, Inspector, was appointed the Enquiry Officer, who submitted the enquiry report with the findings dated 24th April, 1989 holding the applicant guilty of the charge levelled against him. On the basis of the findings of the Enquiry Officer's report and agreeing with the same, the Deputy Commissioner of Police, by the order dated 28th August, 1989, imposed the punishment of dismissal from the Police Force. The period of suspension w.e.f. 24.10.1988 was treated as a period 'not spent on duty'. The applicant preferred an appeal against the aforesaid order of the disciplinary authority and the disciplinary authority, by the order dated 7.2.1990, rejected the same.

2. In this application under Section of the Administrative Tribunals Act, the applicant has prayed for the quashing of the impugned orders, with a direction to the respondents to reinstate him in service and treat the suspension period as period spent on duty with all consequential benefits.

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3. The respondents contested the application and stated that the applicant was caught red handed accepting bribe of Rs.500/- and as a result of this misconduct, departmental enquiry was initiated and after giving him due opportunities, the Enquiry Officer held him guilty, on which the disciplinary authority passed the impugned punishment order which was upheld by the appellate authority. There is no merit in the case of the applicant and the application is liable to be dismissed.

4. We have heard the learned counsel for both the parties and perused the records. It is not disputed by the applicant that a sum of Rs.500/- was ~~not~~ recovered from him. However, the applicant has given in his defence that in fact, a sum of Rs.2,000/- was taken on loan by Shri Tara Chand from one of his relatives at interest rate of 3 per cent per annum. The sum of the loan was refunded, but there remained Rs.740/- to be paid out of interest. Shri Tara Chand, in fact, passed over those Rs.500/- to the applicant, which was short of Rs.200/- and he did not accept the same and had thrown the same on the ground. Thus, the preliminary enquiry against him is misconceived and he had not committed a misconduct in taking the loan amount which remained unpaid to his

relative. He has been wrongly charged for accepting bribe.

5. The learned counsel for the applicant argued firstly that this is a case of no evidence and the Enquiry Officer has given a perverse finding. The material witnesses of the case, Shri Tara Chand and Shri Laxman Singh, both private witnesses, did not state anything regarding demand of Rs.500/- or its payment to the applicant for doing any act or omission for Shri Tara Chand. This contention of the learned counsel, however, is falsified by the official witnesses and by the records. The Vigilance Inspector, Shri Ramesh Sapra, on the basis of a complaint by Tara Chand, has stated that a demand has been made by one, Constable Ram Pal Singh (the applicant), in order not to falsely implicate him in a criminal case. The trap was laid and it was decided that on 27.9.1988, in the premises of Gola Property Dealer, Shakarpur, at about 3.00 p.m. the amount will be paid. Shri Ramesh Sapra got Rs.500/- notes duly signed and the trap was laid in the presence of Shri Laxman Singh, and another Head Constable Shahid Khan and the applicant was caught red-handed accepting Rs.500/-. A memo. of this recovery from the applicant's hands, was prepared. Thus, it cannot be said that there is no evidence

against the applicant. Once the recovery is effected at a place where the raiding party reached on the prior planning and the applicant is caught red-handed, it cannot be said that ^{it was} only a coincidence. The offer of Rs.500/- is not denied by the applicant. He tried to explain the offer of this amount on the basis of a loan advanced by his relative, Shri Duli Chand. However, the applicant could not substantiate, as per the finding of the Enquiry Officer, that it was the unpaid amount of the loan transaction between Tara Chand and Duli Chand. The Enquiry Officer has considered the evidence of the defence witnesses also and given the finding that the applicant did accept Rs.500/- holding that Tara Chand, the original complainant, has been won over. We have also seen the report of the Enquiry Officer and do not find that the findings are perverse. In fact, the loan transaction alleged by the applicant, was about two years' old and yet the name of his relative was for the first time disclosed when the defence witness, Shri Duli Chand, was examined. The Enquiry Officer has given cogent and convincing reasons to come to a finding. In view of this fact, we find that the finding is perverse.

6. The learned counsel for the applicant also argued that there is no evidence of bribe as none of the witnesses,

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even the official witnesses have stated a demand of money by the applicant from Shri Tara Chand. In fact, to expect that a person will accept bribe openly and that the person offering the same will tender the amount disclosing that it is bribe, cannot be reasonably visualised. The case of the Administration is that the applicant had already settled the amount and only the payment part was left out. The payment part has been duly established by the raiding party. Offer of Rs.500/- has been duly accepted by the applicant. Burden now shifts on the applicant to establish how and in what circumstances, this amount was taken by him from Shri Tara Chand. His explanation has not been found plausible by the Enquiry Officer. The Tribunal cannot substitute its own appreciation of evidence regarding the witnesses examined. The normal conclusion and inference that can be drawn is that the money recovered is not the remuneration of the delinquent which he has accepted for showing some favour to the person who offered the money. Thus, it is established that the applicant demanded bribe from Tara Chand and accepted the same.

7. The Appellate Authority, in its detailed order, has considered all these aspects and came to a categorical

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Finding discarding the various contentions raised in the grounds of appeal that the charge is duly established against the applicant.

8. We, therefore, find no force in the present application which is totally devoid of merit and is dismissed, leaving the parties to bear their own costs.

N.K. Verma
(N.K. Verma)
Member (A)
27.7.1993

J.P. Sharma
(J.P. Sharma)
Member (J)
27.7.93