

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

O.A.No.579/90

New Delhi this 15<sup>th</sup> day of July, 1994.

Hon'ble Mr. J.P. Sharma, Member (J)

Hon'ble Mr. S.R. Adige, Member (A)

Chander Pal (No. 1300/ND),  
s/o Shri Late Piarey Lal,  
r/o House No. F-317, Khazail Colony, Shahdara,  
Delhi.

Working as Head Constable (A.W.O)  
in New Delhi District,  
New Delhi

...Applicant.

By Advocate Shri Shyam Babu

Versus

1. Delhi Administration,  
Delhi, through its  
Chief Secretary,  
5, Shamb Nath Marg,  
Delhi.

2. Addl. Commissioner of Police,  
New Delhi Range,  
New Delhi.

3. Addl. Dy. Commissioner of Police, New Delhi  
Distt., New Delhi

....Respondents.

By Advocate Mrs. Avnish Ahlawat.

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member (A).

In this application, Shri Chander Pal Singh, Head Constable (A.W.O), Delhi Police has impugned the order dated 6.12.89 (Annexure-R) withholding his four future increments for four years permanently and treating the period of suspension from 15.12.88 to 16.10.89 as spent on duty which has been upheld in appeal vide order dated 21.2.90 (Annexure-T).

2. Shortly stated the applicant was proceeded against departmentally on the charge (Annexure-M)

that on 9.10.88 while posted at Security Picket, New Delhi, he refused to carry arms and ammunition on duty and stated that he would carry a walky-talky set only instead of a pistol. Further more, on 29.10.88, he was found sitting on a chair during course of his duty in a Khokha at B.D.-17 and stated that being a Wireless Operator he will perform his duties only sitting on a Chair. Moreover, on 2.12.88 in the Orderly Room by the Addl. DCP he was advised to carry pistol on duty but he did not care of these directions of the Senior Officers and again refused to carry on Asla on duty on 8th, 10th, 12th and 13th December, 1988.

3. The Enquiry Officer conducted the departmental enquiry, holding all the charges against the applicant proved beyond doubt and accepting the Enquiry Officer's findings the Disciplinary Authority imposed the impugned penalty vide order dated 6.12.89 which has been upheld in appeal vide order dated 21.2.90 against which this O.A. has been filed.

4. The main ground urged by Shri Shyam Babu learned counsel for the applicant is that Head Constables-AWOS (such as the applicant) who are not trained in handling of arms and ammunition, should not be issued arms. It was argued that the applicant was fully justified in not carrying arms and ammunition, as he was not given training in handling the arms. The nature of the duties of the Wireless Operators are such that it nowhere Prescribes that Wireless Operators will handle arms and ammunition, and in view of the nature of the duties of the Wireless Operator, the applicant

could not be forced to carry arms and ammunition. In this connection, reliance has been placed on the letter dated 29.6.89 from the DCP(Communication), Delhi addressed to the DCP, New Delhi District, New Delhi, in which it had been stated that the Addl.C.P.(Ops) had desired that H.C.(AWO) Jagbir Singh may not be ordered to perform executive duties as he was basically an Asstt. Wireless Operator, and the further communication dated 21.8.89 from the D.C.P, New Delhi addressed to the DCP(Communication) stating that armed personnel should not be burdened with operating wireless sets as well, for which they are ill-trained and the point that the AWOs should not be armed was well taken, but the situation in the pickets was not satisfactory because some executive armed personnel were being forced to handle wireless sets as well, ending with a plea for making good the shortage of 27 AWOs.

5. While it may be true that under ideal circumstances, Armed personnel should not required to carry and operate wireless sets, and the Wireless Operators should not be required to bear arms, the ground situation rarely corresponds to such ideal conditions. Every constable entering the police force is given basic weapons training, and merely because the applicant was working as a Wireless Operator, he cannot take the plea that he was justified in refusing to carry arms and ammunition. The assertion made in the original application that the two documents relied on by the applicant contain specific instructions not to allow the wireless Operators to handle arms and ammunition, is also not correct because it was limited to Head Constable

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(AWO) Jagbir Singh only and was not a general order. Moreover, these instructions nowhere prohibit AWOs from carrying arms if ordered to do so by their superior Officers. Section 60 of the Delhi Police Act, 1978 specifically lays down that 'it shall be the duty of every Police Officer promptly to ..... obey and execute every warrant or other order lawfully issued to him by the competent authority and to comply with all lawful commands of his superior.' In administrative exigencies if the applicant's superiors directed him to carry a pistol this can by no means be construed as an unlawful order, and the applicant's refusal to do so is clearly an act of insubordination. In that event, if charges were framed against him which were proved during the departmental enquiry conducted against the applicant, and on that basis, the applicant was punished, it warrants no interference from this Tribunal.

6. The other charges that the applicant stated that he could not perform standing duties and would perform his duties only seated on a chair and his persistent refusal to carry arms even upon being advised to do so by his superior officers in the Orderly Room on 2.12.88, which were also established during the departmental enquiry only reinforce the insubordinate attitude displayed by the applicant for which he was rightly punished.

7. Shri Shyam Babu has failed to point out any infirmity or lacunae in the conduct of the departmental proceedings, which have been conducted in accordance with rules, and principles of natural justice, and the applicant was given full opportunity of being heard.

8. In the result, the impugned order warrants no interference and this application is dismissed. No costs.

*Alhig*  
(S.R.ADIGE)  
Member(A)

*Sharma*  
(J.P.SHARMA)  
Member(J)

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