

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1577/1991

(8)

New Delhi, this 25th day of July, 1995

Hon'ble Shri J.P. Sharma, Member(J)
Hon'ble Shri R.K. Ahooja, Member(A)

Shri Jaipal Singh
House No.325, Sahibabad
Daulatpur, New Delhi-110 042 .. Applicant

By Shri Shyam Babu, Advocate

versus

1. Chief Secretary
Delhi Admn., Delhi
2. Addl. Dy. Commr. of Police
(Traffic), Delhi
3. Addl. Dy. Commr. of Police
(Security & Traffic), Police Hqrs.
New Delhi .. Respondents

By Shri Vijay Pandita, Advocate

ORDER(oral)

Shri J.P. Sharma

The applicant while working as Assistant Sub-Inspector (ASI) with the Delhi Police, was detailed for duty on 18.11.89 for VIP route arrangement at Mayapuri Chowk, Ring Road, New Delhi alongwith HC Mahinder Singh, Const., Dharam Singh and others. It was alleged that the applicant was not alert in the performance of his duty at a particular time as a result of which in the barricated route a Maruti van No.DNA-3161 tried to enter the VVIP carcade while the Prime Minister's carcade was on movement from Kidwai Nagar to Raja Garden after Mayapuri Fly over. In view of this, an enquiry under Section 21 of Delhi Police Act, 1978 was taken up. The enquiry officer after examining 6 PWs framed charge against the applicant, who had alleged in the summary of allegation that the applicant was not alert while posted on duty for the VVIP arrangement. The applicant had also examined 5 DWs

(9)

to rebut the charge. The inquiry officer after ascertaining the contentions as projected in the testimony of the witnesses of administration and that of the applicant has concluded that had ASI Jaipal Singh (applicant) and HC Mohinder Singh were found not alert on duty the maruti van would have not come on the wrong carriage way, so both ASI Jaipal Singh and HC Mohinder Singh failed to stop the maruti van. Thus the charge against ASI Jaipal Singh and HC Mohinder Singh is proved. The Asstt. Commissioner of Police agreed with the findings and issued show cause notice on 17.10.90 proposing a punishment of forfeiting one year approved service on the applicant. However, the applicant gave detailed reply saying that he performed his duty well and efficiently and despite his best efforts he could not stop the erring car which was coming from the opposite direction. The ACP considered the reply to the show cause notice and issued order dated 28.11.90 imposing a penalty of censure instead of the proposed punishment of reduction of one year service. His appeal against this punishment was rejected by the ACP by his order dated 14.3.91. Aggrieved by this, the applicant has filed this OA in July, 1991 praying for the quashing of the impugned order of punishment.

2. We notice from the enquiry report on the summary of allegation relating to non-alertness of the applicant in the VVIP route on the ring road was departmentally enquired into after due opportunity to the applicant by the inquiry officer having held the charge against the applicant as proved. The matter whether the applicant was alert in performance of his duty or not can not be

gone into by this Tribunal as the enquiry officer has concluded on the basis of sworn testimony as well as documents given in the enquiry. (50)

3. The applicant has filed rejoinder denying the averments made in the counter to the effect that applicant was alert on duty.

4. The case was taken up in the pre-lunch session and since none of the parties were represented, we perused the pleadings on merits. We heard both the parties in the afternoon. The first contention of the learned counsel for the applicant is that none of the witnesses examined on behalf of the administration before the enquiry officer stated that the applicant was in any ~~way~~ negligent in performing his duty and the charge as framed is only on conjecture. It is only after the enquiry officer considered the defence witness held that the charge framed against the delinquent is proved. When we go into evidence of the witnesses of Inspector M.S.Tyagi, SI Raj Singh, ACP Hota, ACP Randhir Singh, Surjeet Singh, it can not be said that the conclusion drawn by the enquiry officer was erroneous or perverse. There is no averment that any of the witnesses were inimical to the applicant. They have simply stated what transpired on the spot. The statement of the witnesses really establish that the maruti van did cross the ~~baricaded~~ line and the applicant was not alert at that time to stop the van. Now coming to the evidence of the defence witnesses Const. Gajinder Singh, Dr. Sukhbir Singh, HC Banwari Lal, Const. Suresh Chand and Jai Prakash, the enquiry officer had considered and accepted the their testimony and recommended that since the ASI

made efforts to stop the erring vehicle itself and deserves lenient view. The findings of the enquiry officer can not be said to be perverse. It may be another point that the findings given may vary on the analysis of the evidence on the norms laid down, but the inference drawn by the enquiry officer can not be said to be faulty in the circumstances of the case. At the traffic point, the applicant was incharge, as ASI. It may be that he made efforts that no vehicle should trespass the carcade but his efforts did not yield the result.

5. It has further been brought to our notice by the learned counsel for the respondents that the applicant has already been given promotion to the next grade and therefore the imposition of penalty of censure is of little consequence now.

6. In the circumstances, the OA is dismissed with no order as to costs.

~~Rakesh~~
(R.K. Ahuja)
Member(A)
25.7.1995

~~Jomar~~
(J.P. Sharma)
Member(J)
25.7.1995

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