

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.0A 1927/1991

Date of decision:15.07.1993

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Shri Attar Singh

...Petitioner

Versus

Commissioner of Police & Others

...Respondents :

For the Petitioner

...Shri A.S. Grewal, Counsel

For the Respondents

...Shri B.R. Prashar, Counsel

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON, VICE CHAIRMAN
THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. To be referred to the Reporters or not?

JUDGMENT (ORAL)
(of the Bench delivered by Hon'ble Mr.
Justice S.K. Dhaon, Vice-Chairman)

The petitioner, an Assistant Sub-Inspector of Police, was subjected to disciplinary proceedings under Section 21 of the Delhi Police Act. The Enquiry Officer submitted his report to the punishing authority. The punishing authority on 09.07.90 passed an order removing the petitioner from service. It was also directed that the period during which the petitioner was under suspension should be treated as not spent on duty. On 30.10.1989, the appellate authority disposed of the appeal of the petitioner. It modified the punishment of removal from service to that of reduction in rank to that of a Head Constable for a period of 5 years from 9.7.90.

2. The petitioner went up in revision. On 08.04.91, the Commissioner of Police dismissed the revision application. The

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orders passed by the punishing authority, appellate authority and revisional authority are being impugned in the present application.

3. In accordance with the relevant rules, the Assistant Commissioner of Police on 11.10.1989 issued a charge memo to the petitioner. According to this document, the petitioner while acting as an Assistant Sub-Inspector of Police on 17.06.1989 was entrusted with an enquiry regarding the loud speaker menace. At the spot some altercation took place between one Shri Pawan Kumar and one Shri Ramesh Sachdeva and Pawan Kumar was beaten by some persons. Pawan Kumar lodged a complaint against Shri Sachdeva and that complaint was entrusted to the petitioner. On enquiry and being aware of the fact that Shri Pawan Kumar had committed mistake, the petitioner arrested Shri Ramesh Sachdeva under Sections 93/97 of the Delhi Police Act.

4. It is also indicated in the ~~trial~~ ^{charge} that the petitioner failed to release Shri Ramesh Sachdeva on bail and instead sent him to lock-up in Police Station, Punjabi Bagh. Thereafter, he released Shri Ramesh Sachdeva on bail only after the intervention of Shri Mala Ram, M.C.

5. The third charge was that the petitioner ~~had not seized~~ the amplifier and loud speaker on 18.06.1989, i.e., after one day of the receipt of the call on 17.06.89.

6. The punishing authority recorded a finding that the petitioner was justified in arresting Shri Sachdeva. He, however, came to the conclusion that the charge was brought home to the petitioner ~~that~~ as he ~~has~~ failed to release Shri Sachdeva on bail. ~~On the earlier~~ ^{Later on} ~~had~~ occasion, he released Shri Sachdeva on bail at the behest of Shri Mala Ram, M.C. He also found that the petitioner failed to seize the amplifier and loud speaker on the very day, he received the call. He had done so on the next day i.e. 18.6.1989.

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7. The appellate authority agreed with the findings of the punishing authority. It, however, felt that the punishment awarded to the petitioner was too severe and he, therefore, reduced the same in the manner indicated above.

8. In the appellate order there is one serious lacuna. It, after depositing of some submissions made by the petitioner, did not deal specifically with the petitioner's contention that he committed no misconduct in not releasing Shri Sachdeva on bail and not seizing the amplifier and loud speaker causing menace on 17.6.1989. It dealt with those submissions in this manner:-

" The other pleas of the applicant also have no weight but this plea that the punishment awarded to him in excessive in view of his misconduct need consideration.....".

9. The appellate authority was expected to apply its mind on the findings recorded by the punishing authority with regard to the misconduct committed by the petitioner. It clearly failed to do so. In the normal course this order should have been quashed and the appellate authority should have been directed to dispose of the appeal of the petitioner afresh.

10. If we quash the order, the automatic result would be that the order of the punishing authority removing the petitioner from service would become operative. That would act to the detriment of the petitioner.

11. The defect in the appellate order stands fully cured as the revisional order deals with the charges brought home to the petitioner. It recorded a finding that two witnesses had deposed before the Enquiry Officer that the petitioner refused to grant bail to Shri Sachdeva. It also observed that the petitioner was not justified in not seizing the amplifier and loud speaker on 17.06.1989. It agreed on both the counts with the punishing authority.

12. We are not sitting here to reappraise the ~~matter~~ ^{evidence}. ~~But we~~ We do not find that the punishing authority or ^{the} revisional authority acted arbitrarily in coming to the conclusion that the two charges ^{against} ~~of~~ the petitioner have been brought home to him. No grounds, therefore, exist for interference.

13. The application is dismissed but without any order as to costs.

B.N. DHOUNDIYAL
(B.N. DHOUNDIYAL)
MEMBER (A)

15.07.1993

S.K. DHAON
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VICE CHAIRMAN
15.07.1993

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