

Central Administrative Tribunal
Principal Bench, N. Delhi.

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O.A. No. 43/91

New Delhi, this the 10th of February, 1995.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

Shri Jeet Ram s/o Shri Khet Ram
Const. No. 1426/SL-2249/PCR,
Hauz Khas Police Station,
South District Lines,
New Delhi.

Resident of:
Village Kahari, P.O. Matal Kalan,
Police Station, Jatausana,
Distt. Newari (Haryana).

Applicant.

(By Advocate : Shri K.L. Bhandula)

Versus.

1. Delhi Administration
Through: Secretary (Home),
Delhi Administration Secretariat,
5, Sham Nath Marg,
Delhi- 110 054.
2. Commissioner of Police,
Police Headquarters,
I.P. Estate,
Delhi- 110 002.
3. Additional Commissioner of Police,
Hauz Khas Police Station (S.R.),
New Delhi.
4. Dy. Commissioner of Police,
South District,
New Delhi.

Respondents.

(By advocate: Sh. Anresh Mathur)

JUDGEMENT

HON'BLE SHRI J.P. SHARMA, MEMBER (J)

In a departmental enquiry initiated under Section 31
of the Delhi Police Act, 1978 read with Delhi Police
(Punishment & Appeal) Rules, 1980, the applicant was
imposed a punishment by the disciplinary authority by the

order dated 10th January, 1989 of forfeiture of one year approved service permanently and the period of suspension from 14th July, 1987 to 20th May, 1988 be treated as period not spent on duty. The Additional Commissioner of Police by the order dated 16.3.1990 rejected the appeal and the revision has also been rejected by the Commissioner of Police by the order dated 10th July, 1990.

2. Aggrieved by the aforesaid orders the applicant filed this Application Under Section 19 of the C.A.T. Act on 1.1.1991 and he prayed for the grant of the reliefs that the impugned order be quashed with all consequential benefits and the suspension period from 14th July, 1987 to 20th May, 1988 be treated as a period spent on duty.

3. The respondents contested this application of calling for the grant of the reliefs prayed for. The applicant was charged for gross negligence and dereliction in the discharge of his official duties during the night between 4/5.7.88 at about 11.40 p.m. when he was on Picket duty at Netaji Park Picket where a message was received regarding a white Maruti Car No. DIC-3289 which had fled with the occupants Karambir Singh and Kaptan Singh after committing a murder in village Devli. The said Car along with three persons was intercepted by Head Constable Radhey Lal between 3.30 to 4.00 p.m. on the same night. H.C. Radhey Lal along with Constable Jagdish Prashad escorted two persons to the Police Station leaving behind the third person who disclosed

his name as Bhure Lal left in the care of the applicant along with two Home Guards for safe custody until H. Constable returns from the Police Station. When H.C. Radhey Lal reached the Police Station it was found that the person left in the custody of the applicant is not Bhure Lal but was Kaptan Singh who was wanted in the murder case. Head Constable immediately rushed to the Picket where the applicant informed that the said person who disclosed his name as Bhure Lal and was infact Kaptan Singh had slipped away on pretext of attending the call of nature.

4. The applicant was placed under suspension and was dealt with departmentally and was suspended from service by the order dated 14th July, 1987 with the direction that disciplinary proceedings be drawn. He was deemed to be under suspension from the date of suspension i.e. 14.7.1987. He was re-instated from suspension without prejudice to the departmental enquiry pending against him. The Enquiry Officer after completing the departmental enquiry given his finding to the disciplinary authority by the Report dated 4th November, 1988 and the copy thereof was supplied to the applicant concluding therein that the charges framed in the chargesheet against the applicant could not be substantiated. The disciplinary authority, however, disinclined to accept the conclusion of the Enquiry Officer and issued a show cause notice proposing to forfeit 5 years of approved service. This show cause notice dated 6.12.1988 was served on the

applicant on 7.12.1988 and the applicant submitted his written reply on 22.12.1988. The applicant was also heard by the disciplinary authority but taking a lenient view and imposed the punishment of forfeiture of his one year approved service permanently entailing reduction in pay for the lapses committed by him. This order has been upheld by the appellate and divisional authorities. The applicant has no case.

5. The applicant has also filed the rejoinder reiterating the points already taken in the Original Application. It is highlighted that the applicant has been involved in the disciplinary proceedings falsely, wrongly and with some ulterior motive to cover the negligence of his superior i.e. Shri Radhey Lal, Head Constable.

6. We heard the counsel for both the parties and perused the record. Section 21 of the Delhi Police Act, 1978 empowers the respondents to charge the applicant for a gross negligence and dereliction of duties. The scope for interference by the Court of Tribunal in a departmental proceedings is not with regard to appreciation of evidence by the administrative authorities. The Court or Tribunal can only go into the fact whether the principle of natural justice has been duly observed and there is no irregularity in the conduct of the proceedings which could violate the statutory rules for holding the enquiry. Further, it is to

be seen whether adequate and proper opportunities was given to the delinquent to produce his defence before the enquiry officer who has finally assessed the evidence adduced before him. In the case of State Bank of India Vs. Sumender Kishore Endo, 1994(27) ATC Page 149, Hon'ble Supreme Court quashed the order passed by the High Court as the High Court has held that there is no evidence and entered into the appreciation of the evidence reaching a conclusion other than that arrived by the disciplinary authority. It was held that this was unjustified by the High Court. The learned counsel has read out the statements of the witnesses and emphasized the fact that the conclusion drawn by the disciplinary authority is not justified. The learned counsel for the applicant has also referred to the Report of the Enquiry Officer which was not fully accepted by the disciplinary authority. The re-appreciation of evidence, therefore, cannot be done and what has to be seen is whether there is adequate admissible evidence against the applicant to arrive at the conclusion drawn by the disciplinary authority. The Hon'ble Supreme Court has taken the same view in a case which came on appeal on a decision of the Madras High Court in the case of Govt. of Tamil Nadu Vs. A.Raja Pandian reported in 1994 Judgement Today Volume-7 page 492.

7. We have also summoned the departmental enquiry file and gone through the statements of the witnesses examined. The contention of the applicant's counsel is that why third

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person, if any, was left with the applicant for safe custody who otherwise was also to be taken to the Police Station later on. The applicant has also cross-examined Head Constable Radhey Lal. The applicant was left with two Home Guards and they preferred to take two persons at a time from the Picket. The contention of the applicant's counsel is based on surmises. We have to consider the facts as deposed before the Enquiry Officer by Shri Radhey Lal, Head Constable and Constable Jagdish Prashad. The contention of the learned counsel that it was the conspiracy of Head Constable Radhey Lal has to be substantiated by certain statements of facts or documents that the applicant was falsely roped in to save the skin of H.C. Radhey Lal. He could have made an immediate complaint in that regard. The S.H.O. Patparganj has, at the very high, informed the concerned A.C.P. regarding escape of one of the culprits of murder i.e. Kaptan Singh. This gives sufficient support to the statement of the HC Radhey Lal. No enmity has been alleged by the applicant with the S.H.O. on duty. We do not find that this is a case where the Station Officer has falsely roped in the constable posted at the Picket, the contention of the learned counsel has, therefore, no basis.

8. The applicant has already been given adequate opportunities and was also heard in orderly room. He cannot have any grievance on that account. However, the learned counsel has read out the statements of some of the defence witnesses

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examined by the applicant. The applicant has also examined Shri Kaptan Singh as one of his witnesses. Kaptan Singh has been alleged to be involved in a case of murder in village Devli. Disciplinary authority has rightly did not place any reliance as the statement given by Kaptan Singh was totally false even not in keeping with the theory put up by the applicant that there were only two persons who were apprehended at the Picket and not three. The statement of the Home Guards also cannot be taken for reliance in comparison to the statement of the police personnels who were actually present at the spot. In any case, even if there is a scope of coming to another conclusion then that cannot be drawn because there is an evidence which is sufficient in reliability to arrive at a finding given by the disciplinary authority.

9. This is a fact that in a case of this nature a lenient view has been taken and there may be some reasons which prevailed with the disciplinary authority regarding complacency of other police personnels in the matter but that is a matter solely with the disciplinary authority and he has a discretion to impose the penalty deemed fit in a particular case. Merely taking a lenient view will not by itself go to show that there was no delinquency or misconduct on the part of the concerned employee. No other point has been pressed.

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10. Having given careful consideration, we find no merit in the Application and the same is dismissed leaving the parties to bear their own costs.

(Signature)
(B.K. SINGH)
MEMBER (A)

(Signature)
(J.P. HARMA)
MEMBER (J)

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