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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

OA No.502/91

New Delhi this the 7th Day of June, 1995.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Mr. K. Muthukumar, Member (A)

A.S.I. Mahinder Singh
No.2515/N-2540/NW of
Delhi Police ...Applicant

(By Advocate Sh. N.S. Bhatnagar)

Versus

1. Union of India through the
Additional Commissioner of
Police, Northern Range,
PHQ, New Delhi.

2. The Deputy Commissioner
of Police, North/West District,
Delhi. ...Respondents

(By Advocate Sh. Amresh Mathur)

ORDER(Oral)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant is aggrieved by ~~the~~ penalty order dated 27.7.90 forfeiting three years of his approved service permanently, reducing his pay by three stages for a period of three years and postponing his future increments of pay. He is also aggrieved by the appellate order dated 31.1.91, ^{against the penalty order. P} rejecting his appeal (Annexures 'A' & 'B' respectively).

2. The brief facts of the case are that the applicant while posted at Police Station Narela was the investigating officer of FIR No.55/89. In this case he had arrested two accused persons Nirajan Singh and Narinder Kumar for having caused grievous injuries to one Smt. Parbati. The accused persons were sent to the Court of the Metropolitan Magistrate Sh. P.D. Gupta along with remand papers through

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Constable Rajbir Singh and Head Constable Dharam Singh on 1.4.89. When the remand papers were produced before the learned M.M. the Defence Counsel Sh. R.S. Malik pointed out to the learned M.M. that there were certain blank papers bearing the signature of Niranjan Singh, one of the accused, and the thumb impression of ^{Sh.} Parbati in the file. On going through the file the Magistrate having found these blank papers in the file bearing the signature of Niranjan Singh at the top and thumb impression of Parbati in the lower portion, recorded the following order:-

"1.4.89.

Present: APP for the State.

Defence counsel: Sh. R.S. Malik for the accused.

At this stage it has been brought to my notice by defence counsel Sh. R.S. Malik that IO has obtained signatures and thumb impressions of the accused on the plain papers to fabricate false memos and documents against the accused. I have perused the file in which I find that two blank papers bearing thumb impressions and two blank papers bearing signatures of Niranjan Singh are attached with the file of the IO produced before me. IO ASI Mahinder Singh has not appeared to take the remand. Case file is kept in the court and same be sent to DCP North West Shri S.K. Jain, for taking necessary action against the defaulting I.O. Genies have been signed by me."

3. Following the above order ^{of 13} the learned M.M., the D.C.P. North-West District ordered the departmental enquiry against the applicant under Section 21 of the Delhi Police Act, 1978. On conclusion of the DE proceedings the impugned punishment orders have been passed.

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4. We have heard Sh. N.S. Bhatnagar, learned counsel for the applicant and Sh. Amresh Mathur, learned counsel for the respondents and perused the records of the case.

5. The main ground taken by the learned counsel for the applicant is that the provisions of Rule 15 (2) of the Delhi Police (Punishment and Appeal) Rules, 1980 have not been complied with in this case. He submits that the departmental enquiry has been ordered by respondent No.2 without the prior approval of the competent authority. The second ground taken by the applicant is that Rule 16 (3) of the Delhi Police (Punishment and Appeal) Rules, 1980 has not been complied with. He submits that the applicant was not present at the time when the learned M.M. Sh. P.D. Gupta was examined as PW-6 in the DE proceedings and ^{that} he was not given an opportunity to cross examine ^{him} thereby violating the provisions of Rule 16(3) as well as the principles of natural justice.

6. The third ground taken by the applicant is that the blank papers found in the file submitted to the learned M.M. in the Court were managed to be placed there by Sh. R.S. Malik, Advocate for the accused persons.

7. The fourth ground taken by the learned counsel for the applicant is that the applicant has been prejudiced in the departmental enquiry because the criminal case was still pending.

8. The last ground taken is that the order of the appellate authority is a non speaking order.

9. On ~~all~~^{all} these grounds the learned counsel for the applicant ~~submits~~^{states} that the impugned orders may be quashed and set aside and his pay and allowances as well as the forfeited service may be restored.

10. The respondents in their reply have denied the above averments made by the applicant. They assert that the departmental enquiry proceedings held against the applicant were in accordance with Section 21 of the Delhi Police Act and the Rules.

11. Regarding the first ground taken by the applicant, Sh. Amresh Mathur, the learned counsel for the respondents has pointed out that Rule 15 (2) of the Delhi Police (Punishment and Appeal) Rules, 1980 is not at all applicable to this case. He submits that the departmental enquiry has been properly conducted under Rule 13 (1) of the Delhi Police (Punishment and Appeal) Rules, readwith Rule 16. In this case the matter was investigated as ordered by the DCP on receipt of the sticturesrecorded by the learned MM in the FIR case No.55/89.

12. With regard to the second ground Sh. Mathur has produced for our perusal the relevant portionsof the DE file. This shows that Sh. P.D. Gupta, learned M.M. was examined in the DE proceedings on 26.10.89. Below his signautre a remark

Yours



has been made which reads: "opportunity given - nil". The learned counsel for the applicant confirms that the applicant has signed the proceedings which also has the date as 26.10.89. There is also another signature on the same page for the second time below which it has been signed by the ACP. He, therefore, submits that according to the record of the DE, the applicant was very much present at the time when the learned M.M. Delhi was examined. He was also given an opportunity to cross-examine this PW but the applicant did not avail of the opportunity and hence he submits that this plea is untenable.

13. In regard to the third ground Sh. Mathur submits that in the examination and cross examination of PW-6 and PW-7, i.e., the learned M.M. and Sh. R.S. Malik, Advocate of the accused, they have strongly denied the allegations made by the applicant that they have placed blank papers in the file.

14. Regarding the next ground that the criminal case was pending, he submits that this has absolutely no relevancy to the DE proceedings. He has also denied the last ground that the appellate order is not a speaking order because he submits that the appellate authority has considered all the points raised by the applicant before rejecting the appeal. He, therefore, submits that the application should be dismissed.

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15. Having carefully considered the arguments and the records of the case, we are of the view that there is no merit in this case for the following reasons:-

(i) The objection taken that Rule 15 (2) of the Delhi Police (Punishment and Appeal) Rules has not been complied with is rejected because no such action is required under this Rule. In this case having regard to the provisions of Rule 13 (1), there appears to be no illegality in the proceedings being taken by the DCP on receipt of the stictures passed by the learned M.M. in this case.

(ii) On perusal of the DE proceedings file, there is no substance in the second ground taken because it is clear from the signature and date that the applicant was very much present when the learned M.M., Sh. P.D. Gupta was examined. The allegations of the applicant to the contrary are not proved and they are, therefore, rejected. Similarly the evidence of PW-6 and PW-7 also shows that the conclusion arrived at by the disciplinary authority is neither arbitrary or unreasonable, which justifies any interference from this Tribunal.

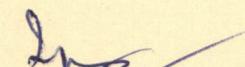
(iii) Regarding the next ground, it appears that the applicant has neither taken any objection to the DE proceedings nor has any prejudice been caused to him because the criminal case was pending.

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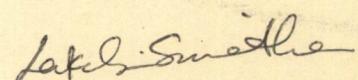
The Criminal case also does not appear to have any bearing on the disciplinary proceedings. This ground is also rejected.

(iv) The last ground is that the appellate authority's order is a non-speaking order. This again is ~~taken~~ rejected ¹³ because on a mere perusal of the appellate authority's order it is seen that the appellate authority has ~~infact~~ ¹³ considered the objections taken and passed a reasoned order ¹³ by the applicant. This read together with the penalty order dated 27.7.90 is, therefore, valid.

16. In view of the above, the application ~~fails~~ and is dismissed. No costs.



(K. Muthukumar)
Member(A)



(Smt. Lakshmi Swaminathan)
Member(J)

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