

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

23

O.A./T.A. No. 821 & 821-A/919

Decided on: 9. 4.96

Bachan Singh & Anr.

..... APPLICANT(S)

(By Shri V.P. Sharma

Advocate)

VERSUS

Delhi Admn. & Ors.

..... RESPONDENTS

(By Shri Vijay Pandita

Advocate)

CO RAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~SHRI/SMT.~~ DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? No

S.R. Adige
(S.R. ADIGE)
Member (A)

(24) ~~AS~~

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.821-821A of 1991

New Delhi : this the 9th April 1996.
March, 1996.

HON'BLE MR.S.R.ADIGE , MEMBER(A)

HON'BLE DR.A.VEDAVALLI, MEMBER(J).

1. Bachan Singh C/o Sh.Hira Lal,
Ex.Cook No.12/C-1 PTB Quarter No.7,
Type-I Jharoda Kalan,
New Delhi.

2. Khem Chand S/o Sh.Bhupat Singh,
Ex.Cook No.31 -C Qr.No.11, Type II,
PTS Jharoda Kalan,
New Delhi.

By Advocate Shri V.P.Sharma.Applicants.

Versus

1. Delhi Administration through the Chief Secretary,
Old Secretariat,
New Delhi.

2. The Commissioner of Police,
Delhi Police Head Quarters,
Near ITO,
New Delhi.

3. The Addl.Commissioner of Police (Trg)
Delhi Police Headquarters, New ITO
New Delhi.

4. The Principal ,
Police Training School,
Delhi Police,
Jharoda Kalan,
New Delhi.

.....Respondents.

By Advocate Shri Vijay Pandita.

JUDGMENT

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

In this application, Shri Bachan Singh and one other have impugned the Delhi Administration's order dated 6.3.91 (Annexure-A1) dismissing him from service and the appellate order dated 7.10.91 (Annexure-A20) setting aside the dismissal order, and inflicting the penalty of reduction in pay by three stages for a period of three years during which the

applicants will not earn any increment of pay but without having the effect of postponing their future increments.

2. The case of the applicants is that they were appointed as Cooks in the Delhi Police on 20.2.79 and 14.6.83 respectively. They state that their appointments were as Civilian employees and not as police personnel and therefore their services were governed by CCS (CCA) Rules, 1965 and CCS (Conduct) Rules, 1964. It is also stated that the Addl. Commissioner of Police (Trg.) vide his order dated 7.6.89 (Annexure-A4) had ordered that all the Class IV employees of the Delhi Police have to undergo a course of training, which is in fact a physical training, which is unknown to service jurisprudence in any department whether State or Centre in India. It is stated that on the basis of said order dated 7.6.89, the Addl. Commissioner of Police vide order dated 19.7.89 (Annexure-A5) directed the applicants along with other employees to present themselves for the training. It appears that upon the failure of the applicants to participate in the training course, the applicants were charge sheeted, and the departmental proceedings were drawn up against them which culminated in the order of dismissal which was converted into an order of reduction in pay by three stages, in appeal.

3. The first ground taken is that the order dated 7.6.89, on the basis of which the applicants had been ordered to undergo the physical training, is illegal as the physical training does not apply to the civilian Class IV employees, in the background

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of Notification dated 17.12.80 framing rules under Section 5 Delhi Police Act. In this connection, we note that the very same order dated 7.6.89 was challenged in OA No. 1368/89 by Delhi Administration Cooks & Water Carriers Employees Association Vs. Delhi Administration & others. That OA was decided on 22.4.94 whereby while dismissing the OA, the Tribunal observed

"Prima facie we find that there is no illegality or arbitrariness in the aforesaid O.M. issued by the respondents. On the other hand, by virtue of the training course, the Class IV employees would be better disciplined and have the awareness about their rights and duties."

4. The applicants have failed to produce any material to suggest that the said judgment dated 22.4.94 has not become final. We as a Co-ordinate Bench are bound by that judgment, and under the circumstance, their challenge to Order dated 7.6.89 fails.

5. The next ground taken is that the Principal PTS Jharoda Kalan had no jurisdiction to frame and issue charge sheet to the applicants. This ground is baseless because the applicants were under the administrative control of the Principal at the relevant time and he had full jurisdiction to draw up and issue the charge sheet.

6. The next ground taken is that the Principal, PTS, Jharoda Kalan had ordered a joint enquiry which was not required in such type of case. This ground is also baseless because both the applicants were charged

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with the same misconduct and a joint enquiry was fully in order.

7. The next ground taken is that the applicants were not supplied with the copies of the documents relied upon and hence they could not prepare their defence. This has been denied by the respondents who state that the applicants were served with the copies of the documents relied upon and since no preliminary enquiry was conducted, the question of supplying the copies of preliminary enquiry report did not arise. We have no reason to disbelieve the respondents' version that the applicants were supplied with the copies of the documents relied upon, and no specific documents have been referred to which were not supplied to the applicants during the D.E. Hence this ground fails.

8. As regards the next ground, the respondents have specifically stated that the applicants were allowed the assistance of Shri Dev Raj Bakshi, Ex. Police Officer in the D.E., and this ground also fails.

9. The next ground taken is that the impugned charge sheet under Rule 14 CCS(CCA) Rules, 1965 was served on the applicants on 30.8.89 and on that date itself the Disciplinary Authority decided to hold the departmental enquiry. The respondents have denied this allegation. They state that the memo of charge sheet together with statement of articles of charge, statement of imputations of misconduct in support of each article of charge, copies of documents relied were issued to the applicants on 30.8.89 and served upon them on 31.8.89 to which they submitted a written reply on 8.9.89 denying the charges. On the receipt

of written statement, the Disciplinary Authority appointed the Enquiry Officer to enquire into the charges vide Office Order dated 14.9.89. Thus, it is incorrect to say that the enquiry was ordered without considering the reply to the charges. These dates have not been challenged by the applicants in their rejoinder. Hence this ground also fails.

10. A ground has been taken that the punishment of dismissal is excessive but that order of dismissal itself has been converted to one of reduction in pay for three years. It is well settled that when the competent authority has passed an order of punishment in accordance with rules, this Tribunal has no jurisdiction to interfere with the quantum of punishment and hence this ground also fails.

11. A perusal of the materials on record, in particular the appellate order dated 7.10.91 makes it manifest that this is not a case where the action of the respondents has been illegal, arbitrary, perverse or based upon no evidence, which would warrant our judicial interference. The applicants were given full opportunity to defend themselves, and under the circumstances, we see no reason to interfere in this matter.

12. This OA therefore fails and is dismissed.
No costs.

A. Veda Valli
(DR.A.VEDAVALLI)
MEMBER(J)

S. R. Adige
(S.R.ADIGE)
MEMBER(A).