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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A./~~T.A.~~ NO. 872 /19 91 Decided on : 3-7-1995

Layak Ram ... Applicant(s)

(By ~~Shri~~ Mrs. Avnish Ahlawat Advocate)

versus

Delhi Administration & Ors. ... Respondent(s)

(By Shri Rajendra Pandita Advocate)

CORAM

THE HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN

THE HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER (A)

1. To be referred to the Reporter or not ? Yes

2. Whether to be circulated to other Benches Yes
of the Tribunal ?

(S. C. Mathur)
Chairman

3.7.95

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 872 of 1991

New Delhi this the 3rd day of July, 1995.

C O R A M

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN

HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER (A)

Ex-Head Constable Layak Ram
NO. 328/W. ... Applicant

(By Mrs. Avnish Ahlawat, Advocate)

-versus-

1. Delhi Administration through
Commissioner of Police,
Delhi Police,
Police Head Quarters,
New Delhi.

2. Additional Dy. Commissioner of
Police (West District),
Delhi Police,
New Delhi.

3. Addl. Commissioner of Police
(New Delhi), Delhi Police,
Police Head Quarters,
New Delhi.

4. Inspector M. S. Sapra,
S.H.O., Anand Parbat,
c/o DCP (HQ-I) Delhi Police,
New Delhi. ... Respondents

(By Shri Rajendra Pandita, Advocate)

O R D E R

Shri Justice S. C. Mathur -

The applicant, Layak Ram, who was Head Constable in the Delhi Police, has directed this application against the punishment of dismissal from service imposed upon him after holding domestic enquiry. The order of punishment is dated 30.7.1990 and the appellate order was passed on 30.10.1990. The charge against the applicant was of acceptance of illegal gratification.

2. The order of initiation of departmental enquiry was passed by the Additional Deputy Commissioner of Police (West District), New Delhi on 19.1.1990. The order purports to be under rule 15 of the Delhi Police (Punishment & Appeal) Rules, 1980, for short, the Rules. By this very order, enquiry officer was also appointed. Summary of allegations was served upon the applicant on 21.1 .1990 in which the alleged misconduct is stated in the following terms :-

> "It is alleged that H.C. Layak Ram No. 328/W while detailed for duty at Tikri Check-Post (Delhi-Haryana) was caught red handed by Central Checking Team, when he accepted Rs.20/- from Inspr. Manphool Singh disguised as decoy sitting in a tempo No. DLL-6510 (matador) loaded with pigs on 7.12.89 at 11 p.m. The Central Checking Team headed by Sh. D. S. Sandhu, ACP/Vig. and Sh. H. M. Meena ACP/HQ/North, Inspr. Kulwant Singh Vig/South Distt. Inspr. Manphool Singh and SI Surender Pal Rana of Vigilance, PHQ were its members.
>
> The aforesaid act on the part of H.C. Layak Ram No. 328/W (P.S. Nangloi) amounts to grave misconduct and dereliction in his official duty which makes him liable for departmental action u/s 21 of the D.P. Act 1978."

3. On 30.10.1990, the applicant made an application to the enquiry officer requesting him to supply him copies of the statements made by witnesses during preliminary enquiry under rule 15 of the Rules and of the preliminary enquiry report. Neither copy of the report nor of the statements was supplied. During disciplinary proceeding, eight witnesses were examined and thereafter charge was framed, which is not different from the allegations made in the summary of allegations. The applicant produced four

defence witnesses and thereafter submitted his written statement of defence. The enquiry officer submitted his report on 18.6.1990 holding the applicant guilty of the charge levelled against him. The disciplinary authority accepted the report of the enquiry officer and passed the order of punishment on 30.7.1990. Aggrieved by the order of the disciplinary authority, the applicant preferred appeal which was dismissed by the Additional Commissioner of Police (South Range), New Delhi by order dated 30.10.1990. The present application was filed in the Tribunal on 10.4.1991.

4. In the aforesaid disciplinary proceeding, the detailed allegation against the applicant was as follows -

On 7.12.1989 the applicant and Const. Baljit Singh were on duty at the Tikri Check Post on Haryana-Delhi Border. This Check Post was checked by the Central Checking Team headed by ACP/Vigilance D. S. Sandhu and comprising ACP/HQ/North H. N. Meena, Inspector Kulwant Singh, Inspector Manphool Singh and SI Surender Pal Rana. It was noticed from a distance during the night of 7th and 8th December, 1989 that the applicant and Const. Baljit Singh were checking commercial vehicles and collecting money. To confirm the position, Inspector Manphool Singh was made a decoy and he was made to sit in Matador tempo No. DLL 6510 which was loaded with pigs. He was given

a twenty rupee currency note initialled by ACP D. S. Sandhu. As soon as the vehicle reached the Check Post from Haryana side, the applicant signalled the driver to stop the vehicle. The vehicle stopped and the decoy gave the initialled currency note to the applicant. Immediately, thereafter the members of the checking team closed on the applicant and took him to the guard room where his person was searched which yielded the initialled currency note. Seizure memo was prepared.

5. On the above facts, with the prior approval of the Additional Commissioner of Police (South Range), regular enquiry was ordered under Section 21 of the Delhi Police Act, 1978.

6. The applicant did not dispute his posting at the date, place and time alleged by the prosecution along with Const. Baljit Singh. He also did not dispute the fact that a tempo had passed the check post and the driver had said that the vehicle was loaded with pigs, whereupon he was allowed to proceed on. The tempo proceeded towards Delhi. His defence is: Immediately thereafter, 5/6 persons in plain clothes came; they included ACPs Sandhu and Meena and Inspector Manphool Singh. Manphool Singh picked up from the ground a twenty rupee currency note. The place from where the currency note was picked up was about 15/20 feet away from the place where the applicant was sitting on a chair. The persons in plain clothes

took the applicant inside the picket booth and said to him that he was acdepting bribe. In this manner, the applicant denied the allegation of bribe but accepted substantial portion of the prosecution case, including the recovery of twenty rupee currency note.

7. In support of their respective pleas, both the parties examined witnesses - the prosecution eight and the applicant four. After the conclusion of oral evidence, the applicant submitted his written statement of defence. The main thrust of the applicant's argument was that there were discrepancies in the prosecution case and the depositions of prosecution witnesses and, therefore, the charge of acceptance of bribe was not established.

8. The enquiry officer has in his elaborate report noticed the discrepancies pointed out by the applicant but has not found them serious enough to knock off the bottom of the prosecution case. In the concluding portion of his report, the enquiry officer has mentioned, "Despite the discrepancies in the statements of PWs, it seems to be certain that the defaulter did stop the tempo and accepted the amount of Rs.20/- from Inspr. Manphool Singh, the decoy. The charge against the defaulter stands proved."

9. The disciplinary authority accepted the report of the enquiry officer and imposed the punishment of dismissasl from service by order dated 30.7.1990, as already stated.

(12)

10. In his memorandum of appeal dated 13.8.1990 addressed to the Additional Commissioner of Police (South Range) the applicant again highlighted the aforesaid discrepancies. The appellate authority gave the applicant personal hearing and thereafter rejected the appeal. In his order dated 30.10.1990, the appellate authority has observed:

> "...It is correct that there are some contradictions in the statement of PWs but the E.O. has already discussed the same in his findings and the appellant has rightly been held guilty of the charge. There is no reason to disbelieve the testimonies of two ACPs who were members of the raiding party. The correct number of the vehicle used by the raiding party is DDL-6510 as stated by PW-1 & II in their statements. Further his contention that the original seizure memo and the currency note of Rs.20/- recovered from him have not been exhibited in the enquiry is correct but it does not minimise the gravity of misconduct. The E.O. has discussed the evidence in detail in his findings and also the discrepancies in the statements of PWs and squarely held the appellant guilty of the charge of accepting bribe. During personal hearing the appellant failed to adduce anything fresh in his defence and pleaded only for mercy..."

11. Learned counsel for the applicant has made the following submissions :

The prosecution claimed to have conducted a raid during which the acceptance of bribe came to their notice. This raid was not conducted in accordance with law inasmuch as neither seizure memo was prepared nor the statements of witnesses who allegedly witnessed the passing of bribe were recorded at the spot. Before ordering holding of departmental proceeding, no preliminary enquiry was held. This is against rule 15, reference to which is made in the order dated 19.1.1990.

During the trial also procedural illegalities were committed. Seizure memo was not brought on the record of the proceedings nor the currency note of Rs.20/- which was allegedly recovered from the person of the applicant. Driver of the tempo and cleaner thereof were important witnesses of fact, but they were neither cited as witnesses in the list of witnesses nor they were produced in the witness box. The prosecution evidence, therefore, lacked material evidence in support of the charge. There was contradiction between the prosecution case and the prosecution evidence and there were discrepancies in the depositions of the prosecution witnesses and, therefore, the charge levelled against the applicant could not be held to have been established; this is an error apparent on the face of the record. The enquiry officer acted as prosecutor as well as judge inasmuch as he cross examined the defence witnesses and went to the extent of suggesting to them that they were deposing falsely to favour the applicant. This deprived the applicant of a fair trial by a person who was required to act in an impartial manner. Copy of the enquiry report was not supplied to the applicant before passing the order of punishment. Copies of material documents were also not supplied despite demand.

12. The application has been opposed on behalf of the respondents. In support of the defence, the Dy. Commissioner of Police (West) has filed his

counter. In the counter, it has been stated that in the circumstances of the case, no preliminary enquiry was required and, therefore, the same was not held. It is pleaded that preliminary enquiry is not obligatory in all cases. It is pointed out that the applicant's own case is contradictory inasmuch as on the one hand he says that no preliminary enquiry was held and on the other, he states that he demanded report of the preliminary enquiry and the statements of witnesses recorded during the said enquiry. In respect of the contradictions it is stated that in the facts and circumstances of the case, they were not of much significance and in any case, the enquiry officer was competent to record finding of guilt despite the minor contradictions. Broadly, it is stated that the finding recorded by the enquiry officer is based on evidence on record and the same does not suffer from any apparent error. Regarding the supply of the report of the enquiry officer, it is stated that the same was supplied soon after the submission thereof by the enquiry officer.

13. To counter the averments made in the reply of the respondents, a rejoinder affidavit has been filed on behalf of the applicant. In particular, it is asserted that copy of the enquiry report was not supplied to the applicant before passing the impugned order of punishment.

14. In support of the case, we have heard Mrs. Avnish Ahlawat and in support of the defence, we have heard Shri Rajinder Pandita.

15. Sub-rules (1) and (2) of rule 15 read as follows :-

> "(1) A preliminary enquiry is a fact finding enquiry. Its purpose is (i) to establish the nature of default and identity of defaulter(s), (ii) to collect prosecution evidence, (iii) to judge quantum of default and (iv) to bring relevant documents on record to facilitate regular departmental enquiry. In cases where specific information covering the above-mentioned points exists a preliminary enquiry need not be held and Departmental enquiry may be ordered by the disciplinary authority straightaway. In all other cases a preliminary enquiry shall normally precede a departmental enquiry.
>
> (2) In cases in which a preliminary enquiry discloses the commission of a cognizable offence by a police officer of subordinate rank in his official relations with the public, departmental enquiry shall be ordered after obtaining prior approval of the Addl. Commissioner of Police concerned as to whether criminal case should be registered and investigated or a departmental enquiry should be held."

Sub-rule (1) actually defines preliminary enquiry and indicates its purpose. It is not provided in this sub-rule that a preliminary enquiry is obligatory in all cases. In fact, this sub-rule specifically lays down that where specific information covering the misconduct exists, a preliminary enquiry need not be held and departmental enquiry may be ordered by the disciplinary authority straightaway. Accordingly, the applicant's plea that the initiation of disciplinary enquiry was contrary to statutory rules is misconcieved.

16. The objection regarding preliminary enquiry was raised as the words "preliminary enquiry" have been mentioned in sub-rule (2). However, sub-rule (2) cannot be read in isolation. It is a part of

rule 15. What is specifically provided for in sub-rule (1) cannot be nullified by sub-rule (2) merely on account of the fact that it refers to preliminary enquiry.

17. Further, the purpose of sub-rule (2) is entirely different from the purpose of sub-rule (1). The purpose of sub-rule (1) is to define the term 'preliminary enquiry', indicate its purpose and prescribe the circumstances in which it may be held or dispensed with. It covers service misconduct simpliciter as well as service misconduct which is offence also. Sub-rule (2) covers only the situation where the facts constitute service misconduct as well as cognizable offence. When a cognizable offence is alleged to have been committed, a criminal case has to be registered and proceeded with in accordance with the Code of Criminal Procedure. In such a case, the question arises whether disciplinary proceeding may also be initiated. Under sub-rule (2) decision in this regard has to be taken by the ACP. This is the only scope of sub-rule (2). Acceptance of bribe is a service misconduct as well as a cognizable offence. Therefore, approval of ACP was required before initiating the disciplinary proceeding. It is for this reason that the order dated 19.1.1990 whereby disciplinary proceeding was initiated makes reference to sub-rule (2).

18. In the case on hand, the departmental officers had already identified at the Tikri check

post - (1) the defaulter, (2) the nature of default, (3) evidence of default, and (4) quantum of default. Nothing more was required to be collected for launching disciplinary proceeding. The respondents are, therefore, correct in submitting that in the facts and circumstances of the case, no preliminary enquiry was required to be held. The initiation of disciplinary proceeding in the present case, therefore, does not suffer from any legal infirmity.

19. The learned counsel for the applicant finds fault with the raid organised by the team on three counts - (1) the raiding party did not comprise any non-official; (2) it did not record the statements of witnesses of the alleged graft; and (3) seizure memo of the currency note was not prepared. These requirements may be relevant for the purposes of a criminal trial but, in our opinion, they are not relevant for a disciplinary enquiry.

20. In **Union of India vs. Sardar Bahadur : 1972 (2) SCR 218 = 1972 LIC 627**, it was held by their lordships of the Supreme Court that a disciplinary proceeding is not a criminal trial and the standard of proof required to establish service/misconduct is that of preponderance of probabilities and not proof beyond reasonable doubt. By the application of this principle, the finding of guilt recorded in the present case will not be vitiated merely because certain formalities required for criminal prosecution were not observed.

21. The learned counsel then invited our attention to discrepancies in the statements of witnesses. With reference to these statements, she wants to establish that not only the witnesses were not consistent in their statements but the allegation made in the charge framed was also contradicted.

22. In the summary of allegations as also in the charge, it is mentioned that the applicant accepted Rs.20/- as illegal gratification from Inspector Manphool Singh. In his deposition before the enquiry officer, Manphool Singh stated that he gave twenty rupee note to the applicant and the applicant returned to him Rs.10/-. The learned counsel submits that in view of this statement, the allegation of acceptance of Rs.20/- as bribe is falsified.

23. PW 4, D. S. Sandhu, in his deposition stated that Inspector Manphool Singh conducted personal search of the applicant in the presence of other members of the raiding party and Rs.90/- were recovered from his person. In his cross examination, the witness stated that Inspector Manphool Singh did not return any money out of Rs.20/- entrusted to him. In respect of the sum of Rs.90/- recovered from the person of the applicant, the witness stated in his examination in chief that the same comprised currency notes of denominations of Rs.50/-, 10/- and 20/-. One note was of the denomination of Rs.50/-, two were

of the denomination of Rs.10/- and one of Rs.20/-. The witness also stated that Rs.20/- note which was recovered from the applicant was the same which he had initialled and whose number was 75N-985893. In his cross examination, he stated, "I had seen the money being passed on by Inspr. Manphool Singh to HC Layak Ram but the same Rs.20/- denomination note bearing my initials was subsequently recovered from HC Layak Ram. This Rs.20/- note was my personal." In our opinion, there is no discrepancy in these statements. The charge against the applicant was of receiving illegal gratification in the sum of Rs.20/- by receiving the same from Inspector Manphool Singh. It was not the case of the department that the applicant did not have any money on his person from before. Therefore, recovery of the higher amount of Rs.90/- from the person of the applicant does not contradict the prosecution's case. The point urged by the learned counsel for the applicant need not be pursued further, as the enquiry officer, the disciplinary authority and the appellate authority, all have accepted that there were discrepancies but those were not grave enough to throw out the department's case altogether. If the authorities had not taken note of the discrepancies it could have been said they had not applied their mind to the discrepancies, but once the authorities noticed the discrepancies and then recorded finding that the charge levelled against the applicant had been sufficiently proved

by other evidence, such finding will not be open to challenge in proceedings before the Tribunal, as the finding of fact recorded by the disciplinary authority on the basis of evidence on record is final, as held in - (1) **AIR 1957 SC 882 : Union of India vs. T. R. verma**, and (2) **AIR 1989 SC 1185 : Union of India vs. Parma Nanda.** In the former case, their lordships of the Supreme Court have observed in paragraph 10, thus -

> "Now it is no doubt true that the evidence of the respondent and his witnesses was not taken in the mode prescribed in the Evidence Act; but that Act has no application to enquiries conducted by tribunals, even though they may be judicial in character. The law requires that such tribunals should observe rules of natural justice in the conduct of the enquiry and if they do so, their decision is not liable to be impeached on the ground that the procedure followed was not in accordance with that, which obtains in a Court of Law."

In the later case it has been observed in paragraph 27 -

> "...the jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse...."

24. It was also the submission of the learned counsel that from mere recovery of money from the person of the applicant an inference of acceptance of bribe cannot be drawn. In support of this submission, the learned counsel has cited **1989 (4) SLJ (CAT-PB) 953, S. K. Jain vs. Union of India & Ors.** In paragraph 27 upon which reliance has been placed, it is observed -

> "In cases of bribery under the Prevention of Corruption Act, 1947, mere recovery of money is held to be not sufficient to prove the acceptance of bribe. In Suraj Mal vs. State

> (Delhi Administration) the Supreme Court has observed that "mere recovery by itself cannot prove the charge of the prosecution against the appellant, in the absence of any evidence to prove payment of bribe or to show that the appellant voluntarily accepted the money"...."

These observations have no application to the facts of the present case as the finding of acceptance of bribe is based not merely on the recovery of money from the person of the applicant; there is other evidence notably of the decoy and ACP Sandhu.

25. The next submission of the learned counsel is that the enquiry officer could not be said to be an impartial person and his report cannot be said to be unbiased as he cross examined the witnesses. In support of the proposition that the enquiry officer is not entitled to cross examine witnesses, the following authorities have been cited :-

(1) **1981 (1) SLR 454 (Kar.) : Abdul Wajeed vs. State of Karnataka & Ors.**

(2) **(1991) 16 ATC 192 (CAT-PB) : Jagbir Singh vs. Lt. Governor, Delhi & Ors.**

(3) **1991 (1) SLR 667 (CAT-Bangalore) : N. K. Vardarajan vs. Sr. Director General, AMSE Wing, Geological Survey of India & Anr.**

(4) **1993 (7) SLR 313 (Punjab-Haryana) : Radha Kishan Rajpal vs. The Indian Red Cross Society, Haryana State Branch & Anr.**

26. The enquiry officer cannot of course assume the role of prosecutor or the presenting officer

but he is not debarred from putting questions in order to elucidate facts. The material on record does indicate that the enquiry officer put questions to two of the applicant's witnesses out of four. To DW-1, Baljit Singh, he even made the suggestion that he was deposing falsely in order to help the applicant, which he denied. Similar suggestion was made to DW-4. No questions were put by the enquiry officer to DWs 2 and 3. Whether by putting questions to witnesses, the enquiry officer disqualified himself from being an impartial judge depends upon the facts and circumstances of each case. In the present case, on material facts, there was no dispute between the parties. The dispute related only to the passing of money by Manphool Singh to the applicant and recovery thereof from his person. On these two material questions, there was sufficient reliable evidence on which the finding of guilt could be recorded. The questions put by the enquiry officer to two defence witnesses and the suggestions made to them do not vitiate the finding of guilt. In our opinion, therefore, in the facts and circumstances of the present case, the order of punishment is not liable to be quashed on the ground urged by the learned counsel for the applicant.

27. The learned counsel for the applicant submits that the punishment has been awarded to the applicant in violation of clause (xii) of rule 16

of the Rules inasmuch as copy of report of the enquiry officer was not supplied to the applicant. This clause does provide that if the disciplinary authority having regard to the findings on the charges is of the opinion that a major punishment is to be awarded, he shall furnish to the accused officer free of charge a copy of the report of the enquiry officer. There is dispute on the question whether copy of the report was supplied to the applicant or not. That it was not supplied is apparent from the copy of the punishment order dated 30.7.1990. In paragraph 7 of this order, it is mentioned,"a copy of this order alongwith findings of the Enquiry Officer be given to Head Constable Layak Ram." In the counter also reliance for supply of copy of the enquiry officer's report has been placed on memorandum dated 30.7.1990 which is the order of punishment. The question for consideration is whether breach of this statutory provision necessarily results in nullification of the order of punishment. The question has been dealt with by their lordships of the Supreme Court in **1994 SCC (L&S) 885 : Krishan Lal vs. State of J & K.** This was also a case in which there was statutory provision which mandated supply of copy of the enquiry officer's report before passing the order of punishment. Their lordships held that the provision was for the benefit of the individual and it could be waived. We have, therefore, to see whether in the case on hand the applicant waived the requirement of

supplying the copy or not. In paragraph 4.17 of the application the applicant has stated that he made an application requesting to be supplied a copy of the report of the enquiry officer. A copy of the letter has been filed as Annexure-J. This letter was written after the punishment was imposed on 30.7.1990 and along with the punishment order a copy of the report had already been supplied. From this, it is established that after the conclusion of the enquiry and before the passing of the order of punishment, no demand was made by the applicant for supply to him of the copy of the enquiry report.

28. In Krishan Lal's case (supra), their lordships found that a request for copy of the report had been made by the petitioner before filing petition but the copy was not supplied. Their lordships, therefore, held that there was violation not only of statutory provision but of principles of natural justice. Their lordships then held that as on the date the case was dealt with by them, the order of punishment was void. However, instead of remitting the matter to the disciplinary authority, their lordships required the employer to furnish a copy of the proceeding to the petitioner and thereafter the High Court was required to consider whether non-furnishing of the copy prejudiced the petitioner and the same had made any difference to the ultimate finding and punishment awarded. If this course is to be

adopted by us at this stage, all that can be done is to require the respondents to supply a copy of the enquiry officer's report and then examine ourselves whether any prejudice has been caused to the applicant. This course in the present case is not required to be followed as before the filing of the application in this Tribunal a copy of the report had already been supplied to the applicant and the learned counsel for the applicant has not been able to establish that any prejudice was caused to the applicant by the failure to supply a copy of the enquiry report. In our opinion, therefore, the order of punishment is not liable to be quashed on the ground that a copy of the report of the enquiry officer was not supplied to the applicant.

29. The learned counsel lastly prayed for reducing the punishment. She cited **1987 (3) SLJ 655 (CAT-PB) : Harphool Singh vs. Union of India** wherein the punishment of dismissal was converted into one of compulsory retirement. Since then their lordships of the Supreme Court have pronounced in Parma Nanda (supra) that the Tribunal does not have the jurisdiction to interfere with the quantum of punishment (see paragraph 26).

30. The learned counsel invited our attention to two unreported decisions of the Tribunal which may also be noticed.

In **Rajender Prasad vs. Union of India & Ors.,**

O.A. No. 591/90 decided on 30.8.1993, the facts were very much similar and the order of punishment was quashed. This was also a case of alleged graft against a constable of the Delhi Police performing duties at the Tikri Border Check Post. Some of the arguments made by the learned counsel for the applicant in the present case were advanced in that case also including the failure to prepare seizure memo and discrepancy in evidence. The judgment of the Tribunal is, however, based on the finding that it was a case of no evidence. The Tribunal noticed that there was no evidence to support the charge of graft except that of SHO who had taken leading part at all stages and his role did not inspire confidence. This judgment is not authority for the proposition that a seizure memo is necessarily required to be prepared and the vehicle driver must necessarily be examined before the enquiry officer. The case of the applicant is not advanced by this authority.

Ramesh Kumar vs. Lt. Governor, Delhi & Ors., O.A. No. 2663/90 decided on 24.3.1995 was also a case in which allegation of graft had been made. The order of punishment of dismissal from service was challenged on the grounds that copies of statements recorded during preliminary enquiry had not been supplied as also the copy of the report of the enquiry officer; there was non-application of mind by the enquiry officer and the

disciplinary authority; no order had been passed under rule 15 (2); and there was no evidence in support of the charge. The Tribunal came to the conclusion that there was non-application of mind inasmuch as a speaking order had not been passed and there was no evidence in support of the charge as all the prosecution witnesses including the complainant denied the charge. The judgment does not, therefore, lay down any proposition of law which may be followed in the present case.

31. In view of the above, the application lacks merit and is accordingly dismissed. There shall be no order as to costs.

P. T. Thiruvengadam

(P. T. Thiruvengadam)
Member (A)

S. C. Mathur

(S. C. Mathur)
Chairman

/as/

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