

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

OA 2086/2004

NEW DELHI THIS21st.....DAY OF FEBRUARY 2006

HON'BLE SHRI JUSTICE B. PANIGRAHI, CHAIRMAN
HON'BLE SHRI N.D. DAYAL, MEMBER (A)

Veer Pal Singh S/o Shri Balbir Singh
Aged about 52 years,
R/o, B-56, Mukund Vihar, Karawal Nagar,
Delhi - 110094

.....Applicant

(By Advocate Shri A K Sehra)

VERSUS

1. Commissioner of Police,
Police Headquarters, P Estate, New Delhi -110002
2. Joint Commissioner of Police,
Armed Police, Delhi,
Police Headquarters, IP Estate, New Delhi -110002
3. Deputy Commissioner of Police,
5th Battalion, Delhi Armed Police, New Police Lines, Kingsway Camp,
Delhi.

.....Respondents

(By Advocate Shri S.Q. Kazim)

ORDER

BY HON'BLE SHRI N.D. DAYAL, MEMBER (A)

The applicant was appointed as Constable in Delhi Police in 1974 and promoted as Head Constable in 1986. Although he qualified for promotion as ASI he could not be promoted due to the Departmental Proceedings against him which have been impugned in this application. The applicant was posted for the first time at Mandoli Chungi in the area Seemapuri Traffic Circle Delhi on 02.12.2000. The next day PRG Raid party carried out a raid following which the applicant was suspended on 3.12.2000 and issued a summary of allegation. A departmental enquiry was held and the following charge dated 21.9.2001 was framed:

“You, ASI Mange Ram Sharma No. 3446/D, HC Veer Pal Singh, No. 296/T./Ct. Sanjeev Kumar 3475/T, Ct. Yashvir Singh, No. 3014/T and Ct. Dinesh Kumar No. 704/T are hereby charged that while posted in Seemapuri Traffic Circle Delhi on 3/12/2000 you were found present at Mandoli Chungi Red Light point Wazirabad Road along with two DHG constable namely Rambir Singh, No.7826 DHG and Vinod Kumar No. 7829/DHG and one private person namely Devender Kumar Agarwal S/o Jai Prakash Agarwal c/o Sh Vinod Singhal, 20 Foota Road Partap Nagar, Siboli, Nand Nagri, Delhi. All you three traffic constables

with the DHG were standing on Central Verge. They signaled Truck No. HR-37-3475 to stop at about 12 noon. You Ct. Sanjeev Kumar approached the truck and asked the driver Mohd. Ahtegsham S/o Basu Ahmed r/o Vill: Gana Khari P.O. Guna, Distt. Sharanpur (UP) to come down from the truck and took him to the Z.O. You S.O. ASI Mange Ram Sharma challaned him vide challan No. L-907835 u/s 29 RRR.1777 MV Act and demanded Rs. 150/- (Rs. 100/- for compounding amount and Rs.50/- entry fee). You HC Veer Pal Singh who were also standing with the ZO near traffic booth obtained the said amount from the truck driver and handed over Rs.50/- to the ZO and Rs.100/- to the aforesaid Mr. Devender for safe custody to avoid recovery from your persons in the event of Raid. The PRG team caught all of you red handed on the spot. Signed GC note of Rs.50/- denomination was recovered from the right side pocket of shirt of you ZO Mange Ram which was kept along with Rs.2800/- found in your person. On further enquiry it was established that you ZO had challaned a certain number of vehicles during the last 2 days and cash amount should have been Rs.2900/- But here the amount was Rs.2800/- plus signed note of Rs.50/- denomination. An amount of Rs.1780/- including signed GC note of Rs.100/- denomination was recovered from the right side pant pocket of Sh. Devender Kumar stuffed in an haphazard and in disorderly manner from which it could be included that the amount had been given to him by you above mentioned traffic staff by collecting illegally from commercial vehicles. You ZO ASI Mange Ram alongwith above traffic staff, DHG Constables and private person Mr. Devender Kumar had assembled at the spot with common malafide intention of collecting illegal entry money from the commercial vehicles.

Further you ASI Mange Ram had threatened the truck driver Mohd. Ahtegsham of dire consequences if he deposed against all of you. Overawed by the threat, the said truck driver did not turn up to depose against you during the enquiry proceedings.

The above act/acts on the part of you ASI Mange Ram No. 3446/D, you HC Veer Pal Singh No 296/T, you Ct. Yashvir Singh No.314/T, you Ct. Sanjeev Kumar, No. 3475/T, and you Ct. Dinesh Kumar No.704/T amount to gross misconduct, negligence, malafide and dereliction in the discharge of your official duties which render you liable to punished under the provisions of Delhi Police (Punishment & Appeal Rules), 1980."

2. The applicant submitted his defence statement denying the charge on 22.2.2002 after which a copy of Enquiry Report in which he had been held guilty along with others was furnished to him on 27.5.2003. On consideration of his representation dated 16.6.2003 against the report the Joint Commissioner of Police dismissed the applicant from service treating the period of suspension as "not spent

on duty' for all intents and purposes. by order dated 4.8.2003. The applicant submitted an appeal on 18.8.2003 which was rejected by order dated 11.11.2003. Thus aggrieved the applicant has prayed for setting aside the order of dismissal passed by the Disciplinary Authority as well as the order of the Appellate Authority and a direction upon the respondents to re-instate him in service treating the intervening period as duty and promoting him as ASI from 28.6.2004 when his juniors were promoted with all consequential benefits including arrears along with interest.

3. In this application various grounds have been taken by the applicant in support of his prayer. He has challenged the order of dismissal from service as non speaking, and submitted that there were procedural irregularities in the Inquiry as well as departure from Rules. Further, there was no evidence that could have been relied upon to hold him guilty of the charge. The respondents have in their counter justified the disciplinary action taken against the applicant based upon the result of Enquiry and disputed the grounds advanced by him. In his rejoinder the applicant has restated his stand and drawn attention to the order of this Tribunal in OA 91/2004 that was filed by the ASI Mange Ram Sharma, in support of the submissions made by him.

4. We have heard the learned counsel for both the parties. It is noticed that the applicant along with others was proceeded against departmentally by a joint enquiry that was based upon a charge which encompassed the role played by each one of them separately, though expressed in sequence of events in the same charge. The punishment of dismissal was imposed upon all of them based upon the result of the same Enquiry. The learned counsel for the applicant has submitted that others who were similarly charged along with the applicant have since received favourable

consideration and so the case of the applicant deserves similar consideration. Several judgements have been cited and copies placed.

5. From the decisions already taken by the Tribunal on the applications filed individually by the other four persons it is observed that Constables Yashvir Singh and Dinesh Kumar had preferred O.As. 2159/2004 and 781/2004, which were both decided on 28.1.2005 allowing their applications with consequential benefits and quashing the impugned orders which were found to have been passed on no evidence. Constable Sanjeev Kumar had filed OA 2656/2004 in which the Tribunal

concluded by order dated 14.7.2005 that he had stopped the truck in normal way and took the driver to the ASI. His role ended therein. As such there was no material against him. The application was allowed with consequential benefits.

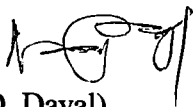
6. ASI Mange Ram Sharma filed OA No. 91/2004 which was decided by the Tribunal on 13.8.2004 with the following directions:

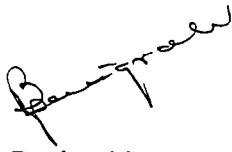
- (a) the part of the charge pertaining to threatening Mohd. Aftegsham is quashed.
- (b) Disciplinary authority in the light of the aforesaid may pass a fresh order in this regard.
- (c) We are not expressing anything at this stage, on the other aspects of the merits and nothing said herein should be taken as an expression of opinion in that regard.
- (d) If the applicant was under suspension, he will continue to be so till the fresh order is passed."

It is not known what has further transpired in this case.

7. A perusal of the charge shows that constable Sanjeev Kumar was alleged to have brought the Driver of the truck to the ASI Mange Ram Sharma who challaned him and demanded the money whereupon the applicant obtained it from the truck Driver and handed it over to the ASI and Mr. Devender. It is evident that the charge against the applicant is linked to the misconduct that the ASI is charged with. Obtaining the money from the truck driver and handing it over would, as per the charge, plainly be a sequel to the demand for it by the ASI. In the light of the directions of the Tribunal in the case of the ASI, we are not inclined to take a view on merit in the present case at the risk of prejudice to other parties and bearing in mind the principle applicable to consequential orders. Therefore, without going into the merits of this application we direct that the Disciplinary Authority may pass fresh orders in the case of the applicant also keeping in view the action taken on the directions of the Tribunal in O.A.91/2004.

8. The application is disposed of accordingly. No costs.


(N.D. Dayal)
Member (A)


(B. Panigrahi)
Chairman