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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2444/2004

New Delhi, this the ²⁷₁₅ day of **May, 2005**

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. M.K.Misra, Member (A)

Subhash Chand
(768/RB)
R/o H-65, Police Station Lodhi Colony
New Delhi. Applicant

(By Advocate: Sh. Shyam Babu)

Versus

1. Government of NCT of Delhi
Through its Chief Secretary
Players Building
I.P. Estate
New Delhi.
2. Joint Commissioner of Police
Rashtrapathi Bhawan
New Delhi.
3. Dy. Commissioner of Police
Rashtrapathi Bhawan
New Delhi. Respondents

(By Advocate: Sh. Vijay Pandita)

O R D E R

By Mr. Justice V.S. Aggarwal:

Applicant (Subhash Chand) is a Head Constable in Delhi Police. He was served with the following charge:

"I, Insp. Ved Parkash, charge you HC Subhash Chand, No.768/RB (PIS No.28930699) that on 5.7.2003, while posted at R.P.Bhawan, was deployed for duty from 4.00 PM to 11 PM at gate No.35, R.P.Bhawan and at about 10.50 PM one Motor Cycle bearing No.HR-51 B 8762 make

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Yamaha entered R.P. Bhawan complex through Gate No.35. Within seconds, one Car (Santro) bearing No.DL-IC11-3240 also entered the R.P. Bhawan complex while chasing the Motor Cycle. The staff deployed at gate No.35 failed to stop & check the Car and Motor Cycle. However, a message regarding unauthorized entry was flashed through Control Room. The matter was also brought into the notice of Insp. H.C.Yati, Inspector/Lines, who in turn alerted the staff deployed at different gates and directed A-82 and A-83 mobile motorcycles to search for these vehicles and men. In the meantime, the said car while chasing the Motor Cycle hit the same near gate No.29, R.P.Bhawan. Motor Cycle rider and pillion fell on the ground but managed to flee taking advantage of darkness. On interrogation the Car owner Shri Suresh Kumar Chhabra told that he was coming from Guruwara Bangla Sahib and had stopped for a few seconds for sending SMS to his friend. In the meantime, two young boys sitting on the Motor Cycle mentioned above, snatched his mobile phone and from that place he started chasing them. Subsequently a case FIR No.160/2003 dated 6.7.2003 u/s 356/511 IPC, PS, Parliament Street was registered on the statement of Shri Suresh Kumar Chhabra.

In view of the above, it is clear that HC Subhash Chand, No.768/RB had not properly fastened the chain at Gate No.35, and thus violated the directions/instructions to the gate staff to put barricades at all gates after 10 P.M., but HC Subhash Chand, No.768/RB neither put barricades at Gate No.35 nor fastened the chain properly to stop forcible entry of the vehicle. Had it been fastened properly, the motorcyclist would not have entered R.P.Bhawan premises. Such type of carelessness, dereliction & negligence in discharge of duty etc. is not expected from the members of the disciplined force especially detailed to perform VVIP security duty in Rashtrapati Bhawan. This kind of slackness/lapse can prove dangerous for the whole security system. Rashtrapati Bhawan is a sensitive unit where round the clock security is provided to the Hon'ble President of India. In the present security scenario the threats to the VVIP is very high and this type of serious lapse

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could be very hazardous to the whole security system.

The above act on the part of HC. Subhash Chand No.768/RB amounts to gross negligence, carelessness, derelictions in the discharge of his official duties unbecoming of a police personnel, which renders him liable for departmental action under the provision of Delhi Police (Punishment & Appeal) Rules, 1980."

2. The disciplinary authority agreeing with the findings of the inquiry officer held that the charge stood proved and imposed a penalty forfeiting the service of the applicant temporarily entailing reduction in his pay for a period of one year. He preferred an appeal which was dismissed.
3. By virtue of the present application, the applicant has assailed the above said orders.
4. The respondents have contested the application.

5. In the reply filed, it has been pleaded that the applicant was deployed for duty from 4 P.M. to 11 P.M. at gate No.35, Rashtrapathi Bhawan and at about 10.50 PM one Motor Cycle bearing No.HR-51 B 8762 make Yamaha and another Car No.DL-ICH-3240 entered Rashtrapathi Bhawan complex through Gate No.35, without checking as the chain was not kept fastened by the staff. The staff deployed at gate No.35 failed to stop and check the vehicle. However, a message regarding unauthorized entry was flashed through Control Room. The matter was brought to the notice of Inspector H.C. Yati. In the meantime, the Car while chasing the Motor Cycle hit the same near gate No.29,

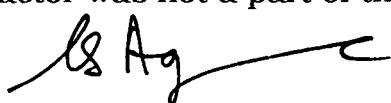
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Rashtrapathi Bhawan. Motor Cycle rider and pillion fell on the ground but managed to flee taking advantage of darkness. Sh. Suresh Kumar Chhabra told that he was coming from Gurudwara Bangla Sahib. In the meantime, two young boys snatched his mobile phone. He started chasing them.

6. The main arguments advanced were that (a) the charge was not proved and (b) extraneous factors have been taken into consideration.

7. At this stage, in our considered opinion, the second plea of the applicant must prevail and, therefore, we will not venture to go into the first contention. It transpired in evidence before the inquiry officer that Inspector H.C.Yati was the sole witness in this regard. He had stated that during checking prior to incident, he had checked the barricades and chain at the Gate No.35. The barricades were put properly and chain was properly fastened. He further stated that chain at Gate No.35 was defective to be fastened properly.

8. The charge framed also was that the applicant had not put the barricades with Gate No.35 nor fastened the chain properly to stop forcible entry of the vehicle. The disciplinary authority went on even to hold that Head Constable Subhash Chand informed the Control Room about the putting up the barricades at the Gate but he had not put up barricades on the ground and thus he had passed on incorrect information to the Control Room. This factor was not a part of the charge.



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9. As already referred to above, the findings even had stated that on checking at the relevant time, it was found that the barricades had been placed. When extraneous factor has been taken into consideration about the incorrect message having been passed on, in our considered opinion, the orders cannot be sustained. It is in the fitness of things that the disciplinary authority, therefore, passes a fresh order considering the charge framed and the evidence on the record excluding any other extraneous factors.

10. For these reasons, we allow the present application and quash the impugned order. The disciplinary authority may pass a fresh order in accordance with law.


(M.K. Misra)
Member (A)


(V.S. Aggarwal)
Chairman

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