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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2579/2004

New Delhi, this the 26th day of August, 2005

Hon'ble Shri M.K. Misra, Member (A)

Surinder Kumar Rathi
No.D-I/574, Inspector
Delhi Police, New Delhi.

...Applicant

(By Advocate Ms. Urmil Sharma)

V E R S U S

The Commissioner of Police, Delhi
Police Headquarters, ITO, New Delhi.

...Respondents

(By Advocate Shri Rishi Prakash)

O R D E R

The applicant – Shri Surender Kumar Rathi has made a prayer to quash the impugned order of censure through this OA.

2. The facts of the case are that the applicant was working as SHO at Dabri who was issued a show cause notice dated 7.8.2000 for minor penalty on the allegations that the applicant misused his official position along with one SI and one Constable and demanded illegal gratification from one Shri Satpal Batra – complainant. The applicant also got him arrested in a false case and on inquiry made by the Anti Corruption Branch, it was revealed that one Shri Swaran Singh filed the complaint against Shri Satpal Batra at the Police Station at Dabri and one Shri Neeraj Chaudhary, SI, Dabri lodged complaint against Shri Satpal Batra and conducted perfunctory inquiry into the matter and without taking prior permission of the SHO or the higher authorities. Later on it was found that the complaint was wrong

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in nature and there was no involvement of Shri Satpal Batra in that case. The applicant being SHO did not act in a prudent manner and also did not inform his senior officers about the wrong act of Shri Neeraj Chaudhary, SI, and Shri Rishi Raj, Constable who were involved in that case. The applicant also did not take remedial measures when it came to his notice that the complaint was wrongly lodged and investigation was made in a perfunctory manner. The approval of the senior officer is also not taken before taking any inquiry against Shri Satpal Batra. When the Anti Corruption Branch placed its report before the Commissioner of Police, Delhi, he passed the order in the manner that he asked for cancellation of the case after proper investigation and initiation of departmental inquiry against SI and Constable and also referred the case for departmental action on account of lapse on the part of SHO, i.e., the applicant, as the supervisory officer. Therefore, a show-cause notice dated 18.9.2000 was issued against the applicant and the applicant furnished the reply before the competent authority and punishment order passed by the Deputy Commissioner of Police vide order dated 8.1.2001. SI Shri Neeraj Chaudhary and Constable Shri Rishi Raj were placed under suspension and departmental inquiries were also initiated against them. The inquiry officer submitted a report to the disciplinary authority wherein it was indicated that the charges against the SI and the Constable were not proved, in any manner and both SI Shri Neeraj Chaudhary and Constable Shri Rishi Raj were, therefore, exonerated by the disciplinary authority on the basis of the

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inquiry report. Their suspension period was also treated as spent on duty. The allegation of the applicant is that the case was filed before the competent Court against Shri Satpal Batra and both the subordinate were exonerated for the same default. Therefore, awarding of punishment of censure to the applicant as a supervisory officer is not justified. It was further mentioned that since the charges made against both the subordinates were not proved, therefore, on the same basis, the punishment of censure should be quashed accordingly. The applicant also filed an appeal before the competent authority but the same was dismissed. Then he further filed a revision petition before the competent authority, which was not considered by the respondents as service rules does not permit review against the appellate order.

3. The respondents' counsel in their reply submitted that the disciplinary proceedings were initiated against the applicant on the basis of the inquiry report of the Anti Corruption Branch which revealed that the case FIR No.350/2000 under Section 506/507 of I.P.C. against Shri Satpal Batra was registered without the permission of the senior officer and without verifying the facts and the allegation of threat given by Shri Satpal Batra to Swaran Singh was not found correct and also no cognizable offence was found to have been committed in the jurisdiction of police Station Dabri. Despite the instructions issued by the Police Headquarters, no prior permission was sought by the officer before registering the case under Section 506 of the IPC. The investigation was conducted in a perfunctory manner. The

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charges of negligence in respect of supervision is proved by the fact that applicant himself admitted that the case was registered during night hours, therefore, the matter did not come into his knowledge. This attitude clearly established the indifferent attitude of the applicant. The applicant admitted during the cross-examination that he marked the application to SI Neeraj Chaudhary for investigation of the case, although applicant did not mention this fact in his reply. The punishment was awarded to the applicant before the inquiry against his subordinate was completed and final order was passed. The punishment of censure was awarded to the applicant on the basis of his written reply and oral submissions.

4. The applicant also filed his rejoinder reiterating the pleas raised in the OA.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. It is observed that the applicant gave the permission to subordinates to make inquiry against Shri Satpal Batra. It is also the fact that the permission of the higher authority was not taken before registering the case against him under Section 506 of IPC despite the fact that the instructions from the Police Headquarters were issued in this aspect. Therefore, it is clear that the subordinates acted as per the directions issued by the applicant. Hence, the plea taken by the applicant that since subordinates were exonerated from the charges framed against them for the same cause of action, the applicant should also be exonerated from the charges, particularly, in the light of the fact

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that the matter of Shri Satpal Batra did not relate to the jurisdiction of Police Station Dabri is not convincing and does not stand the test on merits. Keeping in view the fact that the supervisory authority did not act as per the instructions of the higher authorities, therefore, punishment awarded by the respondents is justified and legal.

7. In the light of the above discussion, the OA suffers from merit and hence, it is dismissed with no order as to costs.



(M.K. Misra)
Member (A)

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