

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.2629/2004

New Delhi, this the 28th day of June, 2005

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

H.C. Inamul Haq,  
S/o Mohd. Mushtafa Khan,  
R/o Vill. Gangoo,  
P.S. Jai Singh Pur,  
Distt. Sultanpur (U.P.)  
At present H.C.No.473/C,  
Central District Lines,  
Paharganj, Delhi

...Applicant

(By Advocate: Shri Sama Singh)

Versus

1. Govt. of N.C.T. of Delhi,  
Through its Chief Secretary,  
Delhi Secretariat,  
New Delhi.
2. Commissioner of Police,  
Delhi Police Headquarters,  
M.S.O. Building, I.P. Estate,  
New Delhi-2
3. The Joint Commissioner of Police  
(Northern Range Delhi),  
Delhi Police Headquarters,  
M.S.O. Building, I.P. Estate,  
New Delhi-2
4. Dy. Commissioner of Police,  
Central District,  
Daryaganj, New Delhi

....Respondents

(By Advocate: Mrs.Renu George)

Order(Oral)Justice V.S. Aggarwal, Chairman

The applicant by virtue of the present application seeks to assail the order passed by the disciplinary authority dated 22.10.2003. By virtue of the same, the disciplinary authority imposed the following penalty:

"I have also heard him in OR. He did not put any fresh plea for consideration. The defaulter Head Constable has shown gross indiscipline. His three years approved service is hereby forfeited permanently entailing reduction in his pay from Rs.4900/- to Rs.4600/-. His suspension period from 22.3.2003 to 17.6.2003 be treated as not spent on duty and he will get nothing more except what he has already drawn in the shape of subsistence allowances."

2.The applicant preferred an appeal which was dismissed by the appellate authority recording that it was an unintentional act without any malafides. He should have brought this fact to the notice of the senior officer. The operative part of the same reads:

"I have gone through the punishment order, appeal, DE file. I also heard the appellant in O.R. on 16.1.04. He mainly pleaded that while removing 'Musanas' (duplicate copy), the original copy also get torn accidentally. It was unintentional and without any malafide. Even if it was so than he should have brought it to the notice of senior officers. It was a serious lapse and I don't find any merit in the appeal, hence rejected."

3.To precipitate the controversy, some other facts can also be delineated.

The applicant had faced a charge which reads:

"I, Insp. Mangal Sen, A. SHO PS Pahar Ganj, (E.O.) hereby charge you, HC Inamul Haq, No.473/C that while you were posted and performing duties as Duty Officer from 12 midnight to 8 AM on the night intervening 21/22.3.2003 at PS Jama Masjid,

*ls Ag*

you tore the original and carbon copy of page No.10 of Daily Diary 'A' of the PS in which entries were made by HC Hari Ram, No.333/C, HC Joginder Singh, No.153/C and by SI Abdul Kalim. You recorded the same entries on next page of Daily Diary 'A' of PS Jama Masjid in your own handwriting.

The above act on you part amounts to grave misconduct, gross negligence and serious dereliction in discharge of your official duties. You have also acted in a manner unbecoming of police officer. As such you become liable for punishment under D.P. (Punishment & Appeal) Rules 1980."

4.The enquiry officer had been appointed and he specifically after recording of the evidence, observed that all the entries made on page 10 had been reproduced on page 11. There was no malafide intention on the part of the applicant. He had nothing to gain out of it. It was a momentary action. The applicant was perplexed. It was in this backdrop that the enquiry officer recorded that the charge stood proved.

5.The learned counsel for the applicant contended that the penalty awarded is excessive.


6.To err is human. We do not dispute that the applicant could have acted better. In perplexion, such an event can also take place. Even the disciplinary authority has accepted the contention of the applicant that he was perplexed and, therefore, this act took place on his part. The disciplinary authority noted that there was no malafide intention.


7.Keeping in view these facts, we are of the considered opinion that the penalty awarded is disproportionate to the alleged dereliction of duty.

8.Since this is a matter which falls within the domain of the disciplinary authority, we quash the impugned order and only direct that a fresh order

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keeping in view our findings above may be passed in accordance with law. O.A.  
is disposed of.

  
( S.K. Malhotra )  
Member (A)

  
( V.S. Aggarwal )  
Chairman

/dkm/