

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2805/2004

New Delhi, this the 15th day of July, 2005

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A.Singh, Member (A)**

Inspector Daya Ram No.D-1426
(Now D-1/1059)

In charge South District
Control Room
New Delhi.

... Applicant

(By Advocate: Sh. S.D.Raturi)

Versus

1. Government of NCT of Delhi
Through
Chief Secretary
N.C.T. of Delhi
Delhi Secretariat
I.P.Estate
New Delhi – 110 002.
2. The Commissioner of Police, Delhi
Police Head Quarters
Vikas Marg
New Delhi – 110 002.
3. The Additional Commissioner of Police
PCR Communication
Delhi. ... Respondents

(By Advocate: Mrs. Sumedha Sharma)

O R D E R (Oral)

By Mr. Justice V.S.Agarwal:

Applicant, by virtue of the present application, seeks to assail the orders passed by the disciplinary as well as the appellate authority. The relevant facts are that departmental proceedings were initiated against the applicant, who is Inspector in Delhi

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Police. It was alleged that the applicant, while working as Inspector, South District Control Room, was allotted Motor Cycle No.DL-1S-7785. On 21.1.2000, the said Motor Cycle was inspected by Deputy Commissioner of Police, South District. During inspection, many discrepancies were noticed. The same had been incorporated which reads:

“C H A R G E

“I, Dr. P.S.Bhushan, Additional DCP/PCR, Delhi, Enquiry Officer, charge you Inspector Daya Ram, No.D/1426, that you, while posted/working as I/C Control Room, South District, Delhi, were allotted the Government Motor Cycle No.DL-IS-J-7785 for the purpose of official use. On 21.1.2000, the above said motor cycle was inspected by DCP/South District. During the course of vehicle inspection, it was found that you had filled up the log book upto 70810 Km at the time of inspection whereas the exact meter reading was showing as 69709 Km i.e. 1102 Km in advance. The meter of the M/Cycle was got checked on the spot by SI/MT/South District and found it in order. Secondly, the pollution of the M/Cycle was not got checked and previous pollution certificate was shown by making cuttings/overwriting to change the date of the pollution certificate. Thirdly, frequent cutting/overwriting had been made in the Log Book on the dates 7.11.99, 8.11.99, 14.11.99, 15.11.99 and 23.11.99. Fourthly, the Motor Cycle was shown in M.T. Workshop, Lajpat Nagar from 16.11.99 to 21.11.99 as per log book. The meter reading on 15.11.99 was 66994, but on 22.11.99, when the M/Cycle was collected from the workshop, the meter reading had been shown at 67186 i.e. 192 Km more than the reading shown on 15.11.99 in the log book. In fact the M/Cycle reported in M.T. Workshop from 16.11.99 to 21.11.99. Again M/Cycle was shown in M.T. Workshop from 23.12.1999 to 26.12.99. The meter reading was 69315, 69415 and 69495 on 23.12.99, 24.12.99 and 27.12.99 respectively. On checking the record it was found that the M/Cycle reported in M.T. Workshop on 23.12.99

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at meter reading 68901 for gear box body stud change, which was repaired on 24.12.99. But you made false entries in the Log Book by showing advance meter reading, as is evident from the record. It has also found that the M/Cycle was running 50 Km to 150 Km daily and frequent cuttings/overwritings had been made by you in the log book. Fifthly, the Goshwara for the last 5 months was also got checked and found that average of Kms/Ltr for every month was different i.e. in the month of August-24 Km., September-26 Km., October-28 Km., November-30 Km., and December-26 Km per Ltr. Lastly, most of the slips to get petrol were of the Najafgarh Petrol Pump pasted in the log book, whereas stamps should have been affixed from Haus Khas. The petrol had been taken on the loose slips from Najafgarh Petrol Pump (1) on 30.10.1998 for 12 Ltr at meter reading 46482, (2) 6.11.98 for 12 Ltr at meter reading 47181 and (3) 27.11.98 for 10 Ltr. At meter reading 48535, which have not been accounted anywhere in the log book by you.

The above act on the part of you Inspector Daya Ram, No.D/1426 amounts to grave negligence, misuse of authority, manipulation of official documents and malpractices, which renders you liable for punishment under the provisions of the Delhi Police (Punishment & Appeal) Rules, 1980.

Sd/-
(Dr. P.S. BHUSHAN) E.O.
Additional Dy. Commissioner of Police
Police Control Room; Delhi"

2. Keeping in view the said irregularity, the departmental proceedings had been entrusted to Dr. P.S. Bhushan, Additional Deputy Commissioner of Police for conducting the same on day to day basis. The inquiry officer had submitted his report stating that the charge against the applicant had partly been proved. The findings in this regard are:

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“The entire evidence available on record has been considered meticulously. The documentary as well as circumstantial evidence proves that several over writing/cutting have been made in the log book of Govt. motor cycle No.DL-1S-J-7785 allotted to delinquent Insp. Daya Ram, No.D-1426, during the course of posting as I/C Control Room South District., New Delhi. The delinquent Insp. has also shown meter reading of the Govt. motor cycle in advance and did not maintain it's record correctly. According to the meter reading mentioned in the log book, the motor cycle was on road whereas in fact the motor cycle had been deposited in MT workshop for it's repair. It also proves that false entries were made by the delinquent Insp. in the log book. According to documentary evidence available on record it has also been proved that pollution of the vehicle was not got checked and previous pollution certificate was shown by making cuttings/over writings to change the date of the pollution certificates. DW produced by the delinquent Insp. has deposed that the said Govt. Vehicle was being used by so many personnel posted in the control room because no regular motor cycle rider was posted. According to this DW several times leakage of petrol was noticed due to carborator over flow and motor cycle was got repaired by the Insp. However, he could not produce any documentary evidence in support of his version. Although no documentary evidence has brought on record yet keeping in view the circumstantial evidence I have the reason to believe that Govt. motor cycle might have been used by the various police personnel posted in Control Room, South Distt. and due to other technical faults the average of Kms./Ltr. of the vehicle was varying and this part of the charge is not proved. Even then the delinquent Insp. can't be absolved of his responsibility. He failed to adopt the due procedure as most of the slips to get petrol from Najafgarh petrol pump, were pasted in the log book, whereas stamps should have been affixed in the log book.”

3. After receipt of the findings of the inquiry officer, a note of disagreement dated 14.5.2003 was recorded, which reads:

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“I have gone through the DE file and findings of the E.O. All the prosecution witnesses have supported the allegations and on the basis of the testimonies of the Prosecution Witnesses and documentary evidence the charge against the delinquent Inspr. was framed. During the proceeding neither the delinquent nor his defence witness has produced any material evidence that so may personnel posted in the Control Room were using the Govt. M/Cycle in question. I could not understand on which grounds the E.O. reached at the conclusion that charge only partly proved, whereas there is sufficient evidence in support of the charge framed and served upon the delinquent Inspr. Therefore, the whole charge seems to have been proved and thereby I disagree with the findings of the E.O.”

4. It is thereafter that representation of the applicant was considered and a penalty was imposed to forfeit five years approved service permanently, entailing reduction in his pay by five stages from Rs.8700 per month to Rs.7700 per month. The applicant preferred an appeal and the Commissioner of Police on 24.1.2004 has reduced the penalty of forfeiture of five years approved service permanently to that of forfeiture of two years approved service entailing proportionate reduction in his pay by two stages. Hence the present application has been filed.

5. Needless to state that in the reply filed, the application is being contested.

6. Substantial part of the arguments of the learned counsel for the applicant was confined to the merits of the matter but it must be stated which is in fact a settled principle that in judicial review, the scope for interference is limited. This Tribunal is not sitting in an appeal against the findings. The interference would

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only be permissible if the findings are perverse or there is no material to support the said findings. The Supreme Court in the case of **KULDEEP SINGH v. THE COMMISSIONER OF POLICE & ORS.**, JT 1998 (8) SC 603, in this regard, held:

“6. It is no doubt true that the High Court under Article 226 or this Court under Article 32 would not interfere with the findings recorded at the departmental enquiry by the disciplinary authority or the Enquiry Officer as a matter of course. The Court cannot sit in appeal over those findings and assume the role of the Appellate Authority. But this does not mean that in no circumstance can the Court interfere. The power of judicial review available to the High Court as also to this Court under the Constitution takes in its stride the domestic enquiry as well and it can interfere with the conclusions reached therein if there was no evidence to support the findings or the findings recorded were such as could not have been reached by an ordinary prudent man or the findings were perverse or made at the dictate of the superior authority.”

7. In the present case, it is basically an appreciation of fact. The same had been appreciated. It cannot be termed nor it was pointed as to how it could be stated that there was no material against the applicant. Suffice to mention that the applicant was having the custody of the Motor Cycle. Therefore, it is not permissible on his part to state that there is no material in this regard. The contention must fail.

8. In that event, it was urged that the ‘note of disagreement’ could not be taken to be a tentative note of disagreement. Since it was a legal plea, we permitted the applicant to raise the same.

9. In the peculiar facts, the contention cannot be appreciated. We have already reproduced above the ‘note of

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disagreement'. He felt that the whole charge seemingly stood proved. It cannot be taken thus to be a final finding. In the peculiar facts, the ratio deci dendi of the decision of the Supreme Court in the case of **YOGINATH D. BAGDE v. STATE OF MAHARASHTRA AND ANR.**, JT 1999 (6) SC 62 will not apply.

10. In that event, it was further urged that punishment awarded is excessive in the peculiar facts. Ordinarily this falls within the domain of the disciplinary authority. Therefore, we are of the considered opinion that the scope for interference would only be where it shocks the conscience of the Tribunal. In the present case, it does not.

11. No other arguments had been raised.

12. For these reasons, the Original Application being without merit must fail and is dismissed.


(S.A.Singh)
Member (A)


(V.S.Aggarwal)
Chairman

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