

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.1672/2004

New Delhi, this the 21st day of March, 2005

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

Constable Ranbir Singh,
S/o Shri Abhey Ram,
Village & P.O. Machrauli,
Distt. Jhajjar, Haryana

...Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. Government of N.C.T.D.
Through its Chief Secretary,
Sachivalaya, I.P. Estate,
New Delhi.
2. Joint Commissioner of Police,
Southern Range,
Police Headquarters, I.P. Estate,
M.S.O. Building, New Delhi.
3. Dy. Commissioner of Police,
South West Distt.,
New Delhi

...Respondents

(By Advocate: Shri S.Q. Kazim)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant faced trial with respect to an offence punishable under Section 7 read with Section 13 of the Prevention of Corruption Act, 1988. The Sub-Judge Delhi on 29.1.2002 acquitted the applicant.

VS Ag

2. It is not in dispute that after acquittal of the applicant, the disciplinary authority passed an order initiating departmental proceedings against him recording:

"On 20.8.97 Shri Ram Avtar Yadav s/o Late Ghissa Ram R/o House No.114, Village Munirka, New Delhi Prop. M/s Yadav Taxi Service near Government Colony, Mohammad Pur Opposite Church Sector-2 R.K. Puram, New Delhi reported in Anti Corruption Branch that one Constable of PP R.K. Puram Sector IV, New Delhi had demanded Rs.1000/- from him as illegal gratification for allowing him to park Car/Taxis and for pitching a tent for his drivers. On this report, a raid was organized by the Anti Corruption Branch, GNCT of Delhi and Constable Ranbir Singh, No.1464/SW of P.P. Sector-IV, R.K. Puram, New Delhi was arrested red handed while he demanded accepted and obtained Rs.1000/- from the complainant in the presence and hearing of an independent Panch Witness namely Shri Shree Bhagwan, Mechanical Grade College of Engineering, New Campus, Badli, Delhi-42. The tainted money was recovered from the road, which was thrown by the Constable Ranbir Singh, No.1464/SW from his pocket while attempting to run away from the spot suspecting the raid. The wash of his hands and his pocket of pant gave positive results for the presence of Phenolphthalein powder in the colourless solution of sodium carbonate. A case FIR No.30/97 dated 20.8.97 Under Section 7/13 POC Act, P.S. Anti Corruption Branch GNCT of Delhi was registered and Constable Ranbir Singh No.1464/SW, P.P. Sector -IV, R.K. Puram, New Delhi was arrested in this case.

The above act on the part of Constable Ranbir Singh No.1464/SW amounts to grave misconduct, lack of integrity, dereliction of duty and unbecoming of a police officer which renders him liable for departmental enquiry under the provision of Delhi Police (Punishment & Appeal) Rules-1980.

Therefore, I TAJENDER LUTHRA Deputy Commissioner of Police, South West District, New Delhi hereby order that Constable Ranbir Singh, No.1464/SW be dealt with departmentally to be conducted by Inspector Sanjeev Kumar Tomar on day-to-day basis, who will submit his findings expeditiously. The E.O. will also send a weekly progress in the D.E. every Monday."

Ag

3. The enquiry officer held the applicant guilty of the charge. Thereafter the disciplinary authority imposed a penalty of forfeiture of two years approved service permanently upon him entailing proportionate reduction in his pay from Rs.3425/- P.M. to Rs.3275/- P.M. He preferred an appeal which has been dismissed on 24.12.2003.

4. By virtue of the present application, the applicant seeks to assail the said orders.

5. We are not delving into any other controversy on the merits of the matter. The reason being that the learned counsel for the applicant contends that the departmental action has been initiated after acquittal of the applicant and rule 12 of Delhi Police (Punishment and Appeal) Rules, 1980 has been ignored. Rule 12 of the abovesaid rules reads as under:

“12. Action following judicial acquittal – When a police officer has been tried and acquitted by a criminal court, he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, whether actually led or not unless :-

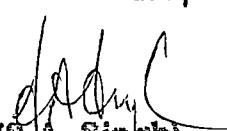
- (a) the criminal charge has failed on technical grounds, or
- (b) in the opinion of the court, or on the Deputy Commissioner of Police the prosecution witnesses have been won over; or
- (c) the court has held in its judgment that an offence was actually committed and that suspicion rests upon the police officer concerned; or
- (d) the evidence cited in the criminal case discloses facts unconnected with the charge before the court which justify departmental proceedings on a different charge; or
- (e) additional evidence for departmental proceedings is available.”

MS Ag

6. Perusal of the same leaves no doubt and it is beyond pale of any controversy that when a person has been acquitted by the Court of Competent Jurisdiction and departmental action is initiated against him, he can be punished if his case falls in the five exceptions which we have referred above.

7. Perusal of the order dated 3.3.2004 indicates that there is no reference to rule 12 of the Rules to which we have referred to above. Even in the order imposing penalty, the ingredients of Rule 12 have been ignored and gravity of the offence has been mentioned at more than one place. In that view of the matter, we allow the present application and quash the impugned orders. It is directed:

- (a) the disciplinary authority may consider the provisions of Rule 12 of the Rules referred to above before initiating departmental action;
- (b) consequential benefits would accrue to the applicant in accordance with law; and
- (c) necessary action in this regard may be taken and benefit granted preferably within four months of the receipt of the certified copy of the present order.


(S.A. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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