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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A. NO.638/2004
~~XXXXXXXXXXXX~~

This the 2nd day of April, 2004

HON'BLE SHRI V.K.MAJOTRA, VICE-CHAIRMAN (A)

ASI Mohinder Singh (No.5225/PCR
PIS No.28720039)
R/O Vill. & P.O. Dhundahera,
Distt. Gurgaon (Haryana).

... Applicant

(By Shri Surat Singh, Advocate)

-versus-

1. Commissioner of Police,
PHQ, MSO Bldg., I.P.Estate,
New Delhi.
2. Addl. Commissioner of Police,
PCR Communications, Delhi.
3. Deputy Commissioner of Police,
Police Control Room,
Delhi.

... Respondents

O R D E R (ORAL) :

Applicant has challenged the penalty of censure imposed upon him in connection with FIR No.753/97 under Sections 448/506/34 IPC, P.S. R.K.Puram.

2. The learned counsel for the applicant pointed out that in the year 1997 applicant was posted as ASI in P.P. Sector-IV, R.K.Puram and was entrusted with investigation of case FIR No.753/97 of 6.9.1997. He prepared the challan through the SHO and submitted to prosecution branch. He was transferred from District South West to PCR w.e.f. 6.2.1998. He was served show cause notice dated 29.4.2002 for having conducted the investigation of the said case in most casual and lopsided manner and retaining the file with him for no valid reason for almost three years and → not bothering

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to explain the reason for the delay at any time, which resulted in the acquittal of the accused. After considering the applicant's reply dated 17.5.2002, the disciplinary authority passed the penalty orders which were confirmed in appeal.

3. The learned counsel of applicant stated that while he had been transferred from District South West to PCR and was relieved on 6.2.1998, it has wrongly been alleged that he had kept the file with him for three years and not explained the reason for the delay.

4. The pleas advanced by the applicant were considered but rejected by the authorities. Admittedly, he had kept the case file for 5 months and 15 days with him. Applicant has also filed copy of the order dated 13.2.2002 of the Court of Metropolitan Magistrate, New Delhi in respect of FIR No.753/1997. It has been observed therein that though the incident was dated 18.8.1997, the chargesheet was filed by the Investigating Officer (I.O.) well beyond the period of limitation, i.e., on 2.5.2000 for which no explanation had forthcome, and that the I.O. (the applicant), had conducted the investigation in the most casual and lopsided manner. Even if the applicant retained the file with him for a period of 5 months and 15 days and not for 3 years, he could not clarify the investigation having been conducted in the most casual and lopsided manner. The orders of the authorities are detailed in which it has been stated that the first I.O. has the pivotal position in the investigation of the case. The applicant was the first

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I.O. in the related case and had failed to collect sufficient information against the accused persons which led to the acquittal of the accused. Certainly, the investigation had been carried out in a lopsided manner by the first I.O., i.e., the applicant. This defect in the investigation was not explained on behalf of the applicant and the Court of the Metropolitan Magistrate had also concluded that investigation conducted by the applicant was casual and lopsided. Even if the applicant was not responsible for delay of a total period of three years, he cannot be absolved of the defect in the investigation conducted by him. For this misconduct, the respondents have rightly punished the applicant with the minormost penalty.

5. No good grounds have been made out for interference with the impugned orders of penalty against the applicant. This OA is dismissed in limine, therefore.

V. K. Majotra

(V. K. Majotra)
Vice Chairman (A)

2.4.04

/as/