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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.959/2004

New Delhi, this the 24th day of November, 2004

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

Constable Bhule Ram Sharma,  
S/o Shri Nanak Chand,  
R/o Villand PO Charjasi,  
District Gautam Budh Nagar(U.P.)

....Applicant

(By Advocate: Shri Sachin Chauhan)

Versus

1. Govt. of N.C.T. of Delhi,  
Through its Secretary,  
Delhi Secretariat,  
I.P. Extension, Delhi
2. Jt. Commissioner of Police,  
New Delhi Range,  
M.S.O. Building,  
I.P. Estate, Delhi
3. Deputy Commissioner of Police,  
North East District,  
Seelampur, Delhi

....Respondents

(By Advocate: Shri Ajesh Luthra)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant was a co-delinquent with Constable Pawan Kumar and Constable Rakesh Kumar. He alongwith them had faced departmental proceedings. Suffice to say that the enquiry officer had exonerated the applicant alongwith the co-

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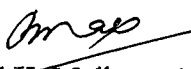
delinquents. The disciplinary authority recorded a note of disagreement concluding that he does not agree with the findings of the enquiry officer. After a notice that was given and considering the representation, the impugned order imposing the penalty had been passed and appeal has since been dismissed.

2. These are the brief facts and details are unnecessary to be mentioned because in the case of co-delinquents (O.A.1126/2004 alongwith O.A.833/2004), on 22.11.2004, the petition has been allowed holding:


"13. In the present case, the disciplinary authority recorded a specific finding that he does not agree with the findings of the enquiry officer. That was also so in the case of Constable Pramod Kumar (supra). A tentative note of disagreement was not recorded. Thus on parity of reasoning with the decision rendered by the Supreme Court in the case of Yoginath D. Bagde and Constable Pramod Kumar (supra), we are of the considered opinion that the impugned orders cannot be sustained.

14. Resultantly, we allow the present application and quash the impugned orders. We direct that if deemed appropriate, the disciplinary authority may proceed from the stage the report of enquiry officer was received. Applicants would be entitled to the consequential benefits."

3. In harmony with the earlier reasons recorded and maintaining the parity, we allow the present application and quash the impugned orders. It is directed that if deemed appropriate, the disciplinary authority may proceed from the stage the report of enquiry officer was received. Applicant would be entitled to the consequential benefits.

  
( S.K. Malhotra )  
Member(A)

/dkm/

  
( V.S. Aggarwal )  
Chairman