

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1951 of 1992

New Delhi, dated the 3rd AUGUST 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Virender Singh,
1362/NW,
S/o Shri Selak Ram,
R/o Vill. & P.O. Ghevra,
Delhi-110081.

.... APPLICANT

(By Advocate: Shri Shyam Babu)

VERSUS

1. Commissioner of Police (Delhi),
Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi-110002.
2. Addl. Commissioner of Police (Northern Range),
Police Headquarters,
M.S.O. Building,
New Delhi-110002.
Delhi-110002.

3. Dy. Commissioner of Police (NW Dist.),
P.S. Ashok Vihar,
Delhi-110052.

.... RESPONDENTS

(By Advocate: Shri Surat Singh)

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns the Disciplinary Authority's order dated 25.7.90 (Ann. I) and the appellate order dated 16.4.91 (Ann. K).

2. Applicant was proceeded against departmentally on the charge that on 19.5.89 he abused and obstructed SI Dalel Singh in the discharge of his official duty when the SI tried

to arrest applicant's brother Surrender Singh in a case FIR No. 40 dated 19.5.89 u/s 366 IPC P.S.Kanjhawala. It was also alleged that on 22.5.89 applicant tried to release his brother from SI Dalel Singh's custody when the latter was taking the accused to court. During the scuffle applicant was alleged to have torn the uniform of SI Dalel Singh and misbehaved with him.

3. Applicant was suspended by order dated 26.5.89 (Ann. A). A departmental enquiry was instituted against applicant. In so far as the first part of the charge is concerned the E.O. held the same as proved. In regard to the second ^{- part of the -} charge, since a case was registered in respect of the same, the E.O. recommended that the same be kept pending till the case was decided by the Court.

4. A copy of the E.O. findings was served on the applicant for representation if any. Applicant submitted his representation, and after considering the same, the Disciplinary Authority upon agreeing with the E.O's findings, passed the impugned order dated 25.7.90 which was upheld in appeal by the impugned order dated 16.4.91.

5. In the impugned order dated 25.7.90 the Disciplinary Authority agreed with the E.O's findings that the sequence of events and evidence regarding applicant's misconduct with respect to

the incident dated 19.5.89 stood proved. He also agreed with the E.O. that since a case was registered in regard to the second part of the charge the same be kept pending till it was decided by the Court and that part of the charge was therefore dropped for the time being, leaving it open to conduct a fresh D.E. in respect of it after the case in the Court on exactly the same ground was decided.

6. The operative portion of the impugned order dated 25.7.90 reads thus:

".....I hereby order that three years approved service of Const. Virender Singh, No. 1362/NW is forfeited permanently and his pay is reduced by three stages from Rs.1050/- to Rs.990/- p.m. in the time scale of pay for a period of three years with effect from the date of issue of this order. He will not earn increments of pay during the period of reduction and on the expiry of this period the reduction will have the effect of postponing his future increments of pay."

7. We have heard Shri Shyam Babu for applicant and Shri Surat Singh for respondents.

8. Shri Shyam Babu has also filed written arguments which are taken on record.

9. The first ground taken by Shri Shyam Babu is that the aforesaid punishment order is not in accordance with Rule 8(d) Delhi Police (P&A) Rules. It is contended that the impugned order in fact penalises the applicant not for three years but for six years which is not permissible under rules, and support in this connection is sought from the CAT, P.B judgment dated 22.7.97 in O.A. No. 1808/91 Mange Ram Vs. UOI, a copy of which is taken on record.

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10. Rule 8 Delhi Police (P&A) Rules lays down the principles for inflicting penalties, and Rule 8(d) reads as follows:

" Approved service may be forfeited permanently or temporarily for a specified period as under:

- (i) For purposes of promotion or seniority (Permanent only)
- (ii) Entailing reduction in pay or deferment of an increment or increments (permanently or temporarily).

11. By the impugned order dated 25.7.90 applicant's three years approved service were forfeited permanently w.e.f. the date of issue of the order which automatically resulted in ^{reduction} ~~loss~~ of pay. Thus, if he had put in x years of service and was earning Rs.1050/- in the time scale (as he indeed was on that date), he would be deemed to have been put in x-3 years of service, and if the annual increments were of Rs.20/-, his pay stood reduced by three stages from Rs.1050/- to Rs.990/- p.m., after deducting Rs.20/- for each year of service, i.e. Rs.60/- in all. Notification No. F.10/5/79 dated 17.2.80 makes it clear that in addition to the Rules and regulations made under the Delhi Police Act, including the Delhi Police (Promotion & Confirmation) Rules, 1980, FRs and SRs will also be applicable to all the Subordinates/Civilian and Class IV employees of the Delhi Police, and only in cases of conflict between the provisions of the rules framed under the Delhi Police Act, and the Central Govt. Rules adopted under this Notification, would the provisions of the Rules framed under the Delhi Police Act shall prevail.

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12. FR 29(1) reads as follows:

"If a Govt. servant is reduced as a measure of penalty to lower stage in his time-scale, the authority ordering such reduction shall state the period for which it shall be effective and whether, on restoration, the period of reduction shall operate to postpone future increments and, if so, to what extent."

13. Finance Ministry in its O.M. dated 21.2.57 has clarified with reference to FR 29 that reduction to a lower stage can be ordered only for a specific period and the authority ordering such reduction is required to specify the period in the order of reduction.

14. This is made clear even further in the proforma prescribed in D.G. P&T's O.M. dated 16.12.70 occurring in GOI's orders below FR 29 which lays down that while imposing a penalty of reduction to a lower stage in the time scale of pay, the operative portion of the punishment order should be worded as in the form given below:

"It is therefore ordered that the pay of Shri.....be reduced bystages from Rs.....to Rs..... in the time scale of pay for a period of years/months with effect from it is further directed that Shriwill/will not earn increments of pay during the period of reduction and that on the expiry of this period, the reduction will/will not have the effect of postponing his future increments of pay."

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15. The Disciplinary Authority in the impugned order has reduced the applicant's pay by three stages from Rs.1050/- to Rs.990/- p.m. in the time scale of pay for a period of three years w.e.f. the date of issue of the order. He has also made it clear that applicant will not earn increments of pay during the period of reduction and on expiry of this period the reduction would have the effect of postponing his future increments of pay. The aforesaid penalty order is fully in accordance with the model proforma extracted above, and it only means that the deferment of increments is with cumulative effect. In other words applicant's salary would remain at Rs.990/- from 25.7.90 till 25.7.93 and he would have earned his first increment of Rs.20/- raising his salary to Rs.1010/- on 25.7.94. In our view this penalty is fully consistent with the provisions of Rule 8 (d) Delhi police (P&A) Rules which itself is in consonance with FR-29(1)^{and} are fortified in our view by the judgment dated 5.12.96 in O.A. No. 1595/91 Inspector Joginder Singh Vs. Commissioner of Police & Anr., which is subsequent to Mange Ram's case (Supra), and which is not shown to have been stayed, overruled or modified. If Shri Shyam Babu's argument were to be accepted it would imply that withholding of increment(s) with cumulative effect cannot be ordered under Rule 8(d). In our considered view no such restriction can be read into Rule 8(d). Hence this ground fails.

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16. In this connection it is also important to note that the Delhi Police (¹P&A) Rules are framed under the Delhi Police Act. Rule 21(1) Delhi Police Act states that subject to the provisions of Art. 311 of the Constitution, and the Rules, the competent authority may award to any police officer of subordinate rank of the following punishments namely

- (a) dismissal
- (b) removal from service
- (c) reduction in rank
- (d) forfeiture of approved service
- (e) withholding of increment; and
- (f) fine not exceeding one month's pay.

As it has not not been said that the competent authority may award any one of the following punishments in a single penalty, order it follows that more than one of the above punishments may be imposed in a single penalty order. This further supports the view that the impugned penalty order cannot be challenged for violation of Rule 8(d).

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17. In so far as the other grounds pressed by Shri Shyam Babu are concerned which are also contained in the written submissions, it is not the function of the Tribunal to re-appreciate the evidence or to conclude that the findings were perverse and arbitrary merely because the respondents disbelieved the version of the defence witnesses.

18. In the result we see no good reasons to warrant interference in the O.A. It is dismissed.
No costs.

A. Veda Valli

(Dr. A. VEDAVALLI)
MEMBER (J)

S.R. Adige

(S.R. ADIGE)
VICE CHAIRMAN (A)

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