

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.192/92

New Delhi, this ~~10th day of February~~ ^{615 of March}, 1998

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri S.P. Biswas, Member(A)

Shri Balwant Singh
s/o Shri Hari Parkash
C-78, Suraj Park, Samapur, Badli
Delhi-42

.. Applicant

(By Advocate Shri S.K. Sinha)

versus

Union of India, through

1. Commissioner of Police
Police Hqrs., New Delhi
2. Addl. Commissioner of Police (Armed Police)
Police Hqrs., New Delhi
3. Dy. Commissioner of Police
1st Bn. DAP New Police Lines
Kingsway Camp, Delhi .. Respondents

ORDER

Hon'ble Shri S.P. Biswas

The applicant challenges order dated 27.7.88, 24.7.89, 12.10.90 and 25.1.91. By these orders, the applicant has been made to face departmental enquiry, awarded punishment of forfeiture of one year's approved service, enhancement of the punishment to that of dismissal from service and modification of dismissal order to that of forfeiture of 2 years approved service for a period of two years entailing proportionate reduction in pay from Rs.1180 to Rs.1125/- p.m. Consequently, applicant has sought reliefs in terms of quashing of these orders.

2. Applicant seeks to justify his case against the aforesaid orders on the basis that according to Rules applicable to "Guard" duties, all the Guard members can go for meals or to attend to other requirements. That

he was well within his rights provided by mandatory provisions contained in the rules to go to meals etc., checking officers should have ascertained his absence from duty from the Additional CP under whose verbal orders the applicant had left the guards instructing the other members of the guards accordingly. That apart, applicant would contend that departmental enquiry was not conducted as per rules applicable to the officers and men of Delhi Police as contained in Rule 16 of the Delhi Police (Punishment and Appeal) Rules, 1980 and because of violation of the provisions in the aforesaid rules, enquiry proceedings and the consequent order of punishment are liable to be quashed.

3. Counsel for the applicant has also submitted that the inquiry officer was biased as as he was not empowered to cross examine the PWs and DWs and yet he did so in order to prove the charges and support the version of the prosecution. As per applicant, suspension shall be ordered when the charges, if proved, shall render the delinquent liable for dismissal or reduction in rank. The case of the applicant was not covered by any of the provisions and as such the period of suspension should have been treated as spent on duty for all purposes.

4. Respondents have denied that there has been any infraction of rules and regulations covering the proceedings.

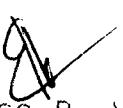
5. We have gone through the relevant rules (Punishment & Appeal Rules) of Delhi Police Act, 1980. The applicant was held guilty of being absent from guards

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duties on several occasions through an enquiry held as per procedure. A copy of the finding of the inquiry officer was given to the charged official. We do find that the inquiry officer was within his right to question the witnesses to clear the ambiguity or to test the veracity as provided in 16(5) of the Delhi Police (Punishment & Appeal) Rules, 1980. Both the appellate and revisional authorities have applied their minds while dealing with the appeals and only as a result of that the punishment of forfeiture of one year's approved service by modifying the order of punishment was inflicted on the applicant by taking a lenient view of the matter. The applicant has not indicated the specific provision/provisions of Rule 16 - "Procedure in departmental enquiries" that stand violated. The applicant's contention that PWs and DWs cannot be questioned cannot be sustained. Rule 16(v) provides "The enquiry officer shall also frame questions which he may wish to put to the witnesses to clear ambiguities or to test their veracity. Such statements shall also be read over to the accused officer and he will be allowed to take notes". On the basis of the pleadings and material placed before us, we do not find it a fit case warranting our interference. The plea that the inquiry officer was biased has not been established with credible evidence/material.

6. The OA is dismissed accordingly. No costs.


(S.P. Biswas)
Member(A)


(Dr. Jose P. Verghese)
Vice-Chairman(J)

/gtv/