

Central Administrative Tribunal
Principal Bench: New Delhi

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OA No. 2030/92

New Delhi, this the 8th day of September, 1997

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

1. Constable Om Prakash,
S/o Shri Raghbir Giri,
R/o C-286, Gagan Vihar,
Near Gokulpuri, Shahadara,
Delhi.
2. Constable Rajinder Singh,
s/o Shri Ram Phal Singh,
r/o Barrack No. 6,
2nd Battalion & A.P.
Kingsway Camp,
New Delhi. petitioners

(By Advocate: Shri S.S. Tiwari)

Versus

1. Lt. Governor of Delhi through
Chief Secretary,
Delhi Administration,
Old Secretariat,
Delhi.
2. Additional Commissioner of Police,
New Delhi Range,
New Delhi.
3. Additional D.C.P.,
North East District,
Delhi.

.... Respondents

(By Advocate: Sh. Vijay Pandita)

O R D E R (ORAL)
[Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)]

Petitioners were proceeded against by a regular enquiry for the alleged charge of stopping the Maruti Van and Constable Rajinder Singh in connivance with the petitioner extorted Rs. 20/- from one Sh. Prem Ram travelling by the said Van. Disciplinary authority considered the enquiry report which had returned the charge as proved and stated in the impugned

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order that the petitioners are indulging in corruption and extorting money from innocent people and since the petitioners were not sympathetic to public, do not deserve any sympathy for themselves, and proceeded to pass the dismissal order against the petitioners by a common order dated 13.11.1991.

Aggrieved by the said order the petitioners filed an appeal. The appellate authority by an order dated 21.5.1992 had come to the conclusion that no public witness has been examined during the disciplinary enquiry and no permission under rule 15(2) of the Delhi Police (Punishment and Appeal) Rules, 1978 has been sought from the competent authority as required.

Appellate authority also recorded his overall consideration of the enquiry report as well as the punishment order by the disciplinary authority and stated:

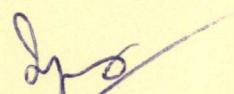
"After going through the proceedings and the material on record, I find that the case put forth by the Vigilance Staff is weak as it is not handled properly. The complainants PW-1 and PW-2 have not deposed any thing against the appellants. The documents also do not support the prosecution case. Even there are contradictions in the versions of PWs 4, 5 & 6 on being cross examined."

On the basis of the above said observations and findings by the appellate authority, the order of imposing a punishment of reduction of the salary by two stages from 1150 to 1100 per month for a period of two years and the pay of Const. Rajender Singh No. 1257/NE is also reduced by two stages from Rs. 1050/- to 1010/- per month for a period of two years in place of punishment of dismissal, is also found to be

unwarranted. The appellate authority once found that the punishment order was passed on the basis of "no evidence" and also the said punishment order was also without obtaining the sanction required to be obtained under rule 15(2) of the Delhi Police (Punishment & Appeal) Rules, 1978, could not have proceeded to pass any punishment order. Absence of sanction goes to the root of the case.

In view of this, the inevitable conclusion is that the dismissal order passed by the disciplinary authority as well as reduced punishment awarded in appeal by the appellate authority by order dated 21.5.1992 are both quashed and the petitioners will be entitled to all consequential benefits.

This OA stands allowed to the extent stated above with no order as to costs.



(K. Muthukumar)
Member (A)



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

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