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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A.No.2217 of 1992.

New Delhi, this the 8th day of June, 1995.

HON'BLE MR J.P.SHARMA, MEMBER(J)

HON'BLE MR B.K.SINGH, MEMBER(A)

Shri Dharam Pal, Ex.Head Constable, Delhi Police
House No.110 D Block, Gali No.3, South Anarkali, Delhi.51.

... Applicant.

(through Mr J.P.S.Sirehi, Advocate).

vs.

1. The Commissioner of Police, Delhi, M.S.O.
Building, I.P.Estate, New Delhi.
2. Shri M.S.Upadhyay, Addl.Dy.Commissioner of Police
Traffic, Delhi, M.S.O.Building, I.P.Estate,
New Delhi.
3. Shri Niranjan Singh Traffic Inspector, Kotwali,
Chandnicewk, Delhi.
4. The Addl.Commissioner of Police,(Security)/Traffic
MSO Building, I.P. Estate, New Delhi.

.... Respondents.

(through Mr Rajinder Panditta, Advocate).

ORDER(ORAL)

(delivered by Hon'ble Mr J.P.Sharma, Member(J))

The applicant joined the Delhi Police force as Constable in 1962 as a reserved category candidate and was promoted to the rank of Head Constable in the due course of time. His name was also included for consideration for the next promotional post of A.S.I. However, that situation has not arisen as the applicant was served with a summary of allegations to the effect that on 31.8.1987 he submitted a petition threatening the police Department that if his name was not brought in the promotion list 'D' and the departmental

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inquiry initiated against him was not closed then, he, alongwith his members of his family will resort to 'Dharna' in front of the residence of the Home Minister.

The charge framed against the applicant is that the above act amounted to gross misconduct, negligence and deriliction of official duties.

The Disciplinary Authority Niranjan Singh, T.I.Kotwali, gave his finding in the report dated 15.10.90 after examining Const.Ombir Singh(PW-1), K.Sudershan Malhotra(PW-2) and Shri Kishan Chander, ASI(PW-3) and thereafter the applicant was given an opportunity to give list of witnesses but he did not submit any such list, except only his statement and certain photostat copies of applications, complaints and one Medical Certificate from 10.12.86 to 5.6.87 and medical rest from 28.8.86 to 13.10.86. The Disciplinary authority gave a show-cause notice to the applicant vide order dated 6.6.1991 imposing a penalty of dismissal from service. The applicant appealed against the same and the appellate authority the Addl.Commissioner of Police vide order dated 19.6.1992 rejected the appeal and affirmed the order of the Disciplinary Authority. Thereafter, the applicant filed this application, in which he has prayed that the impugned order of punishment be quashed and the applicant may be treated in continuous service from the date of dismissal with all consequential reliefs/benefits.

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The respondents contested this application and filed a reply stating the fact about the misconduct of the applicant, in ~~mix~~ writing, in his application threatening the police department either to stop the inquiry and give him promotion or that he shall resort to Dharna in front of the residence of the Home Minister.

In the inquiry, which was conducted, the applicant was given due opportunities. The respondents, therefore, state that the applicant has no case at all. The applicant has also filed a rejoinder to the reply filed by the respondents, reiterating the facts as stated by him in the Original Application.

We have heard Shri J.P.S. Sirohi, on behalf of the applicant and Shri Rajinder Panditta, for the respondents. The learned counsel has taken us through various documents on record and also stated that the applicant was being tortured and harassed by Shri V. Raj Gopalan, DCP under whom the applicant was working. The applicant was in a state of depressed mind and was getting treatment in the Government Hospitals and as such could not keep the balanced view of his expressions and as such he made certain writing which may not be appropriate as expected from a Government servant. The emphasis of the 1d. counsel is that the applicant was undergoing medical treatment and has not been paid his wages for the last six months and as such he resorted to an act, which is unbecoming of a Government Servant. However, the punishment awarded is severe and has effected his person and professional life.

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We have gone through the pleadings of the parties and have heard Shri Panditta for the respondents. We do find that the imposed punishment is ^{not} commensurate with the misconduct which has been established in the findings of the Inquiry Officer in the report dated October, 1990. The Disciplinary Authority as well as the Appellate Authority have failed to take humanitarian view of the matter and exhibited ~~undue~~haste in coming to the conclusion that the misconduct ^{committed} by the applicant calls for an action under Rule 8 of the Delhi Police(Punishment & Appeal) Rules, 1980. As this Tribunal cannot interfere in the quantum of punishment but we are inclined to think that the punishment if any, could have been substituted by a lesser penalty other than, removal, dismissal or termination from service so that the applicant may improve in future in his behaviour towards his superiors and may have a corrections in the matters relating to his person and professional life. The resort to Dharna or other cohesive measures by an employee normally ~~will~~ are not expected from a Government servant but that was due to reaction in his mind to certain un-satisfied grievance harboured by such an employee either wrongly or rightly. These unsatisfied grievances of the employee may often resort in exhibitions, which may not be broadly said to be from a disciplined employee. However, if such acts are without any motive, it is expected that the person in authority empowered to exercise the unlimited power should do it with a restraint thinking that the person who has indulged in certain amount of misconduct has done so out of

sudden, frustration or psychological reactions.

During the course of hearing, it transpired that in the year 1989, the applicant was imposed a punishment forfeiting his three years of permanent service and that when the order of dismissal from service was passed, a show-cause notice had been issued to the applicant on 5.2.1990 on the basis of another disciplinary inquiry in which the Inquiry Officer has not given a finding of guilty against the applicant. We are, however, not concerned with this. They will take their own course in accordance with law.

After giving a careful consideration of the entire record and hearing the rival contention of the parties, the order of dismissal dated 6.6.1991 is quashed and ^{we} remand the matter back to the Disciplinary Authority to reconsider the punishment imposed upon the applicant ^{and award punishment} _{other} than dismissal, removal or termination from service. We are passing this order in view of the fact that the applicant has not resorted to any Dharna in pursuance to the threat given by him to the Police Department. We have already observed that the psychological and mental equilibrium with the applicant was not sound and he was hospitalised for certain treatment as is evident from the record. We are fortified in our view by the authority of State Bank of India & others vs. Surender Kishore and others (1994(2)ATC 149).

We have already noted that the applicant had not resorted to Dharna and the inquiry started much after he had given in writing.

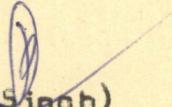
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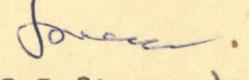
In view of this, we quash the order of punishment imposed against the applicant by the Disciplinary Authority and affirmed by the appellate authority and remand the matter to the Disciplinary authority to pass any punishment other than the penalty of removal, dismissal or termination from service.

The applicant be re-instated in service and be placed in the same position as he was on 6.6.1990. Any punishment imposed under the orders of this Tribunal shall not affect any other enquiry pending against the applicant.

The respondents are directed to implement this order within a period of four months from the date of receipt of copy of this order.

Cests on parties.


(B.K. Singh)
Member (A)


(J.P. Sharma)
Member (J)

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