

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI



O.A./T.A. NO. ~~xxx~~ 3211 /19 92 Decided on : 23.9.1997

Mehinder Singh & Ors. ... Applicant(s)

(By Mrs. Avnish Ahlawat
~~xxx~~ Advocate)

versus


Commissioner of Police & Ors. ... Respondent(s)

Ms. Jyotsna Kaushik by
(By Shri Aiesh Luthra Advocate)

CORAM

THE HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN
THE HON'BLE SHRI S. P. BISWAS, MEMBER (A)

1. To be referred to the Reporter or not ?
2. Whether to be circulated to other Benches
of the Tribunal ?


(K. M. Agarwal)
Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.3211/1992.

NEW DELHI THIS THE ^{23rd} DAY OF SEPTEMBER, 1997.

HON'BLE SHRI JUSTICE K.M.AGARWAL, CHAIRMAN

HON'BLE SHRI S.P.BISWAS, MEMBER (A).

1. Ex. Constable Mohinder Singh.
2. Ex. Head Constable Radha Charan
3. Ex. Constable H.Suresh

C/O 243, Lawyers' Chambers,
Delhi High Court,
New Delhi.

...Applicants.

(Applicants by Advocate Mrs.Avnish Ahlawat)

Vs.

1. Commissioner of Police, Delhi,
Police Headquarters,
I.P.Estate,
New Delhi-110002.
2. Addl. Commissioner of Police,
Shri Gurcharan Singh,
Delhi Police,
Police Headquarters,
I.P.Estate,
New Delhi.
3. Deputy Commissioner of Police (East),
Shri B.S.Brar, Delhi Police,
Police Headquarters, I.P.Estate,
New Delhi.
4. Inspector Suchinder Singh,
Enquiry officer,
to be served through Deputy
Commissioner of Police,
D.E. Cell, Police Headquarters,
I.P.Estate, New Delhi.
5. Shri J.C. Sharma,
Assistant Commissioner of Police,
Vigilance Branch,
Police Headquarters,
Delhi Police,
I.P.Estate, New Delhi.

...Respondents.

(Shri Ajesh Luthra, proxy counsel for Ms.Jyotsna Kaushik, counsel)

ORDER

JUSTICE K.M.AGARWAL:

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants have made a prayer for reinstatement in service after quashing the impugned orders of removal from service passed against

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them by the competent authority and affirmed in appeal by the appellate authority.

2. Briefly stated, the applicants 1 and 3 were Constables and the applicant No.2 was the Head Constable in Delhi Police. From 8.00 P.M. of 21st and till 8.00 A.M. of 22nd of April 1990, they were posted at Police Check Post, Ghazipur within the jurisdiction of Kalyanpuri Police Station. At about 5.10 A.M., Constable Mohinder Singh was alleged to have stopped one truck coming from the direction of Ghaziabad and illegally recovered a sum of Rs.10/- as entry fee from the truck driver with the tacit consent and connivance of the Head Constable Radha Charan and Constable H.Suresh. In a common enquiry proceedings, the charges were found proved and accordingly the applicants were removed from service by the disciplinary authority. The appeal failed and, therefore, the applicants have filed the present O.A. for the said reliefs.

3. In her written arguments, the learned counsel for the applicants has raised several objections, but most of them merit no attention. The one argument that merits attention is about non-supply of copies of documents relied on by the prosecution and the other is about failure to give brief details of the evidence to be led by the P.Ws. Rule 16 (i) of the Delhi Police (Punishment and Appeal) Rules, 1980 specifically says that: "...Lists of prosecution witnesses together with brief details of the evidence to be led by them and the documents to be relied upon by prosecution shall be attached to the summary of misconduct." (Emphasis supplied). This provision was held to be mandatory in Soma Kumar vs. Union of India, O.A. No.812/91, decided on 29.9.1995 by this Tribunal, which ^{was} followed in Ex-Head Constable Dheeraj Singh vs. Lt. Governor, O.A. No.80/94, decided on 26.8.1997 along with O.A. No.338/94 by the Principal Bench. The charge (Annexure D) mentions at the foot of it:

Summary of allegations

List of documents by which and

List of witnesses by whom allegations

are to be proved.

as Annexures to the Charge-sheet. The summary of allegations is given.

In the Memo of Evidence, names of seven witnesses are mentioned.

Against witnesses at S.Nos.1 to 6, it is mentioned: "They will depose

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the whole incident in detail." Against witness at S.No.7, it is said: "He will prove the duty of the defaulters. " In the List of Documents, the Statements of Sh.Abid Ali and Mohd. Abbas are referred at S.Nos. 1 and 2. At S.No.3, copy of Roster dt.21/22.4.90 P.S. Kalyan Puri is referred. However, copies of these documents were not supplied to the applicants. For this infirmity, the impugned orders of penalty deserve to be quashed.

4. Now the next question is about the relief to be granted. Ordinarily the case deserved to be remanded with a direction to the respondents to supply copies of the relevant documents and then to proceed with the enquiry from that stage. However, looking to the delay between the date of the application and the date of this judgment and the difficulty likely to be faced by the prosecution in securing the attendance of the witnesses, we think, it would be just and proper, if this case is decided in terms of the common judgment in O.A.Nos.80/94 and 338/94, decided on 26.8.1997, because the facts and circumstances of the present case are similar to those of O.A. Nos. 80/94 and 338/94.

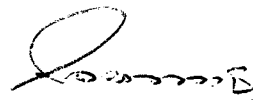
5. In the result, this O.A. partly succeeds and it is hereby partly allowed. The impugned penalty orders of removal from service, together with the appellate orders, passed against the applicants are set aside and the respondents are directed to reinstate the applicants within a period of two months from the date of receipt of a copy of this order. The applicants shall not be entitled to back salaries for the period between the date of their removal from service and the date of reinstatement; or to seniority over others on the basis of their past service, because by this time, so many persons might have been promoted and it would not be proper to make any order in their absence, affecting their seniority. However, the period between their removal from service and the date of reinstatement may be considered as qualifying service for the limited purpose of pensionary benefits, if any, to be given to the applicants

on their retirement from service. No costs.

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(K.M. AGARWAL)
CHAIRMAN



(S.P. BISWAS)
MEMBER (A)