

5/3/98

R-8

OA-3268/92  
Present: Shri R.R. Rai proxy for  
Shri Shankar Raju for  
applicant  
Dep. Rep. for Respondents

An Adjournment is prayed  
for on behalf of Shri Shankar  
Raju who is stated to be in  
personal difficulty.

Hr on 25/3/98

GR  
(Mrs. Lalashmi Swaminathan) (S.R. Adige)  
M(F) VC(A)

27-3-98

To remain on daily rd

30-4-98

Present: Sh. Shankar Raju, counsel  
for the appl.  
Sh. Ajesh Kumar, proxy counsel  
for Mr. J. Kaushik, counsel  
for the resps.

OA disposed of by a D.O. of Hr. 9/5/98  
S.R. Adige, VC(A) and Hr. 10/5/98 Dr. A.V. Rao  
Order a separate sheet

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

NEW DELHI.

(10)

O.A.No.3268/92

New Delhi: this the 30th April, 1998

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

HON'BLE DR.A.VEDAVALLI, MEMBER (J)

Asstt. Sub-Inspector Sat Sarain No.2621/SD,  
S/o Late Shri Chandgi Ram,  
presently posted at Rashtrapati Bhawan,  
New Delhi,  
R/o Village Bharthan P.O.Bijwasan,  
New Delhi - 110061. .... Applicant.

(By Advocate: Shri Shankar Raju)

Versus

1. Addl. Commission of Police,  
Southern Range, Police Headquarters,  
I.P.Estate,  
New Delhi
2. Addl. Dy. Commissioner of Police,  
South District,  
Hauz Khas,  
New Delhi ..... Respondents.

(By Advocate: Shri Ajesh Luthra)

ORDER (ORAL )

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN

- Applicant has impugned Disciplinary Authority's order dated 10.5.91 imposing a penalty of reduction in pay as well as Appellate Authority's order dated 6.12.97 rejecting the appeal (Annexure-A7 & A9 respectively).
2. We have heard applicant's counsel Shri Shankar Raju and respondents' counsel Shri Ajesh Luthra.
  3. The Enquiry Officer in his report dated 25.8.90 held that the first part of the charge namely the applicant having planted recovery of

Scooter No. DAB- 5486 (Original No. DAA-2936) upon Shri Davinder Kumar Malik could not be proved but the second part of charge namely Davinder Kumar Malik has wrongly been arrested under sec. 379 IPC stood proved against the applicant.

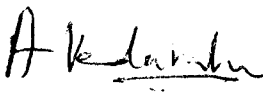
4. The Disciplinary Authority in his impugned order dated 10.5.91 however disagreed with the findings of the Enquiry Officer in respect of first part of charge and held that this part of charge i.e. planting of scooter on Davinder Kumar Malik also stood proved against the applicant. If the Disciplinary Authority had reasons to disagree with the finding of Enquiry Officer, in regard to the first part of the charge the proper course for him should have been to reduce the reasons for his disagreement into writing and communicate the same to applicant along with a copy of enquiry report to enable him to make representation and thereafter to dispose of the same according to law. The Disciplinary Authority however did not follow this procedure and from the contents of impugned order dated 10.5.91, it is clear that it is only during the course of hearing that the applicant was asked to clarify the points regarding recovery of the scooter orally, which the Disc. Authority states that the applicant was unable to do.

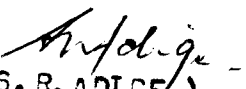
5. Even if the Disc. Authority asked the applicant to clarify the above during the personal hearing afforded to him it cannot be said that there has been sufficient compliance of the proper procedure and

the principles of natural justice by affording applicant adequate opportunity to reply the points of disagreement between the E.O's findings and the Disc. Authority's conclusions.

6. In the result, the Disc. Authority's impugned order dated 10.5.91 as well as appellate authority's order dated 6.12.97 are quashed and set aside. The case is remanded back to the Disc. Authority with the direction that in the event he disagrees with the findings of the E.O, he should reduce the reasons for such disagreement into writing and communicate the same to the applicant along with a copy of the E.O's report and give him a reasonable opportunity to file a representation against the same and on receipt of the representation, dispose of the same in accordance with law.

7. The OA stands disposed of accordingly. No costs.

  
( DR. A. VEDAVALLI )  
MEMBER(J)

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

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