

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

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O.A./~~XXX~~ No. 3295/1992

Decided on: 22/1/98

Harphool SinghApplicant(s)

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

Versus

Delhi Admn. & OthersRespondent(s)

(By Shri Amresh Mathur Advocate)

CORAM:

THE HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter *q* *es*
or not?

2. Whether to be circulated to the other *X*
Benches of the Tribunal?

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(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O. A. No. 3295 of 1992

New Delhi this the 22nd day of September, 1998

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HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Assistant Sub-Inspector Harphool Singh
C/o Mrs. Avnish Ahlawat, Advocate,
243, Lawyers' Chambers,
Delhi High Court,
Sher Shah Marg,
New Delhi.

... Applicant

By Advocate Mrs. Avnish Ahlawat.

Versus

1. Delhi Administration through
Commissioner of Police, Delhi
Delhi Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi-110 002.
2. The Additional Commissioner of Police
(New Delhi Range)
Delhi Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi-110002.
3. Shri B.S. Bassi,
Deputy Commissioner of Police (North District)
Civil Lines,
Delhi-110 002. .. Respondents

By Advocate Shri Amresh Mathur.

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

Orders passed by the disciplinary and appellate authorities in a disciplinary proceedings initiated against the applicant are under challenge in this application. Penalty of forfeiture of 2 years service and withholding of increment for this period, without postponement of future increments after the expiry of the period of reduction in his pay during the aforesaid period was imposed, which was appealed against. But no order in

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appeal has been passed.

2. It is stated in the charge-memo that the applicant with the Sub-Inspector apprehended some persons in the bus stand in suspicious circumstances and produced them before SHO/Civil Lines, who directed him to send a Rukka for registration of the case against the person (Roop Kishore), from whom one .12 bore katta and a sum of Rs. 3670/- was recovered from the possession. It was also stated that he did not obey the orders of the SHO/Civil Lines for not lodging any report under section 65 of the Delhi Police Act in the Daily Diary against the second person and let him off without taking any action.

3. Applicant contends that Enquiry Officer's finding was perverse. The finding on evidence, had been given on a charge which was not alleged against the applicant. Although no allegation of negligence or carelessness is included in the summary of allegations or charges, the disciplinary authority has agreed with the findings of the Enquiry Officer that he was negligent and careless and he was punished for the same. He did not get any opportunity to defend himself on this, when there was no charge on this account, but the Enquiry Officer returned a perverse finding, which was accepted by the disciplinary authority without proper application of mind, and without any evidence on record.

4. The learned counsel for the applicant's main contention was that no case of corruption had been

established against the applicant under Delhi Police Act. She referred to the findings of the Enquiry Officer. She argued that there was no finding against the applicant that he had intentionally/wilfully misappropriated any sum. There was no charge of negligence and carelessness but Enquiry Officer had returned a finding to the effect that the charge of negligence and carelessness was proved. She asserted that this itself would make the finding perverse.

5. We have perused the pleadings and the record of the disciplinary proceedings and heard the learned counsel for the parties.

6. From the charge-memo, we find that there was no specific charge regarding negligence and carelessness in the performance of duties. There was no charge of misappropriation of funds. The Enquiry Officer, however, recorded as follows:-

"The only allegations against ASI Harphool Singh is that he has not taken the proper action in performing his official duty and he had signed the memos blindly without knowing the fact regarding the amount which was shown in the memos. He did not bother even to inform either the SHO or his senior officers. It is found through the enquiry that the charge of carelessness, negligence and dereliction in performing his official duty is proved. So far regarding corruption is concerned, there is nothing against ASI Harphool Singh on the record of this D.E."

Further, the Enquiry Officer has observed as follows:-

"No evidence has come on record regarding corruption".

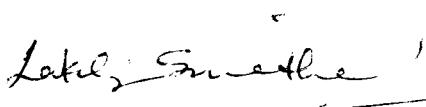
7. Earlier, he had observed as follows:-

So far regarding the charge against ASI Harphool Singh, No.394/D, it is quite clear from the statement of PWs, HC Desh Raj, No.209/N and Ct. Ravinder Singh, No.1293/N PW-9 and PW-1 respectively and also from the statement of PW-5 Ct. Narinder Singh, No.1810/N that all these PWs and ASI Harphool Singh had left the room of the IO SI Jai Chand at about midnight and have also left the Police Station Civil Lines to their police stations and no transactions of money was taken place in the presence of ASI Harphool Singh and HC Desh Raj, Ct. Ravinder Singh and Ct. Narender Singh".

8. The above facts as recorded by the Enquiry Officer clearly show that there is no clear finding of the Enquiry Officer that the charge is proved. As regards this finding that there was negligence and carelessness, no such charge is alleged. In view of this, we find that the conclusion of the disciplinary authority agreeing with the observation of the Enquiry Officer that the applicant was negligent and careless, when there was no such charge against him, is perverse and without application of mind.

9. In the facts and circumstances, we are of the considered view that the impugned order cannot be sustained. Accordingly, the same is quashed and set aside. The application is allowed and the applicant is entitled to all consequential benefits. No order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)


(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

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