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Central Administrative Tribunal
Principal Bench

O.A. 458/92

New Delhi this the 23rd day of September, 1997

Hon'ble Mrs. Lakshmi Swaminathan, Member(J).
Hon'ble Shri R.K. Ahooja, Member(A).

Head Constable Ved Pal,
No.3083, 4th Battalion, P.T.S. Jheroda Kalan,
Delhi Police, Delhi. ... Petitioner.

By Advocate Mrs. Avnish Ahlawat.

Versus

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| 1. Delhi Administration, Delhi
through Commissioner of Police,
Police Headquarters, I.P. Estate,
New Delhi. | 3. Dy. Commr. of Police,
4th Bn. DAP, Delhi,
PTS Jharoda Kalan,
Delhi. |
| 2. Addl. Commissioner of Police,
4th Bn, DAP, Delhi,
PTS, Jharoda Kalan,
Delhi. | ... Respondents. |

By Advocate Shri D. Mukherjee, proxy for Shri Anoop Bagai.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the order dated 30.11.1990 imposing upon him the punishment of reduction in pay by one stage from Rs. 1050/- per month to Rs.1030/- per month for a period of one year, and the appellate authority's order dated 11.4.1991 dismissing his appeal.

2. The applicant was working as a Drill Instructor for recruits at the relevant time. On 30th/31st May, 1990, the applicant states that a complaint was made against him by the brother of one recruit Shri Baljit that the recruit was given beating with the rifle butt. The applicant was suspended by the order dated 31.5.1990. After preliminary inquiry was held, the departmental proceedings were initiated against the applicant. He states that in the complaint made by the recruit, he has stated that since he was having temperature
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for the last one or two days, he could not perform his work properly and the applicant had beaten him. In the summary of allegations, it was alleged that while posted as Drill Instructor in 4th Battalion, the applicant gave beating to recruit Constable on 29.5.1990 in the presence of other recruit Constables on the pretext that he got his leave sanctioned by CDI, 4th Battalion without getting it forwarded through him. The same facts have been mentioned in the chargesheet. The Inquiry Officer had submitted his findings on 1.11.1990 after examining prosecution and defence witnesses. The applicant submits that he had made a representation against the findings of the Inquiry Officer. His grievance is that without examining the vital aspects raised by him against the findings, the disciplinary authority passed the impugned punishment order on 30.11.1990. Mrs. Avnish Ahlawat, learned counsel for the applicant, submits that a detailed appeal was also filed which had been rejected by the appellate authority on 11.4.1991. Her main contention is that the incident of beating was supposed to have taken place on 29.5.1990 and the complaint made by the brother of the recruit Shri Baljeet refers to the beating given to his brother by the applicant with rifle butt on the ground that he had not done his duty properly. The learned counsel submits that on 30.5.90, however, the second leave application was supposed to have been submitted not through the applicant by the recruit. The learned counsel, therefore, contended that since the motive for giving him beating was not there any more as there was a second leave application, the charge also cannot stand. She also relies on the judgement of the Supreme Court in **Central Bank of India Ltd. Vs. P.C. Jain** (AIR 1969 SC 983) and submits that when the findings of the competent authority are not based on legal evidence or not reasonable,

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the findings are to be treated as perverse and can be interfered with by the Tribunal. It is also submitted that appellate authority's order is not a speaking order and has not dealt with the many grounds taken in the appeal. For these reasons, the learned counsel has submitted that the impugned order of punishment should be quashed.

3. The respondents have filed their reply controverting the above facts. We have also heard Shri D. Mukherjee, learned proxy counsel for the respondents. The learned proxy counsel submits that even from the averments made by the applicant himself in the Original Application, it is seen that he has stated that in order to give strict training to the recruit constables in Delhi Police and in order to maintain discipline, at times the instructors have to act a little harsh with the recruits. According to him, this shows that the fact of beating the recruit constable is not denied by the applicant. He has also stated that the Tribunal should not act as a court of appeal to reassess the evidence and punishment as they are within the domain of the administrative authorities and the Tribunal cannot interfere in it.

4. From the materials on record, it is seen that the Inquiry Officer has examined a number of prosecution and defence witnesses and has dealt with the evidence while making his recommendations. It is settled law that the Tribunal cannot sit as a court of appeal to reappreciate the evidence and to arrive at its own conclusion so as to substitute it for the findings of the disciplinary authority. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made (See Union of India Vs. Parma

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Nanda (AIR 1989 SC 1185), Govt. of Tamil Nadu Vs. A. Raja Pandian (AIR 1995 SC 561), State of Tamil Nadu & Anr. Vs. S. Subramaniam (JT 1996(2) SC 114) and Upendra Singh Vs. Union of India (JT 1994(1) SC 658). The disciplinary authority in the impugned order has referred to the argument that during the disciplinary inquiry proceedings, the motive of beating had not been proved and the plea taken by the applicant that hence was no motive of beating and the charge was not proved as not tenable. The disciplinary authority has stated that although it is a fact that motive/reason of beating could not be proved, the fact that the applicant had beaten the recruit Constable Baljit during the morning parade has been proved based on the evidence of the witnesses in the disciplinary inquiry proceedings. The detailed discussion of the evidence has also been done by the disciplinary authority. We are, therefore, of the view that this is not a case of no evidence. There is also some merit in the contentions of the respondents that the applicant has himself stated that in order to maintain discipline in the police force at times the instructors have to act little harsh with the recruits. The contention of the learned counsel for the applicant that since there was no motive of beating, we should, therefore, hold that there was no beating is untenable having regard to the evidence and other materials on record, which have also been dealt with in detail by the disciplinary authority. The appellate authority in his order has also specifically dealt with the plea of motive raised by the applicant stating that the fact of his giving beating has been established in the disciplinary proceedings. The punishment order of forfeiture of one year's approved service for a period of one year cannot

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be considered to be perverse taking into account the facts and circumstances of the case which justifies its quashing and setting aside.

5. In the result, in the facts and circumstances of the case and having regard to the established principle of law on the question of interference by the Tribunal in disciplinary proceedings, we find no justification to quash the impugned orders in this case. The application is accordingly dismissed. No order as to costs.

(R.K. Ahooja)
Member (A)

(Smt. Lakshmi Swaminathan)
Member (J)

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