

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

(24)

O.A./TXX. No. 83/1992

Decided on: 6.12.96

Constable Sat NarainApplicant(s)

(By Shri L.C. Rajput Advocate)

Versus

The Commissioner of Police & OthersRespondent(s)

(By Shri Surat Singh Advocate)

CORAM:

THE HON'BLE ~~SHRI~~ MRS. LAKSHMI SWAMINATHAN, MEMBER (J)
THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter *42*
2. Whether to be circulated to the other Benches of the Tribunal?

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(K. MUTHUKUMAR)

MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 83 of 1992

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New Delhi this the 4 day of November, 1996

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

Constable Sat Narain
No.180/PTS,
Police Training School,
Jharonda Kalan,
New Delhi
R/o Village Barhkhalsa,
Sonepat (Haryana). ...Applicant

By Advocate Shri L.C. Rajput

Versus

1. The Commissioner of Police,
Delhi Police,
Police Headquarter,
I.P. Estate,
New Delhi.
2. The Additional Commissioner of Police,
Training, Delhi Police,
Delhi.
3. The Principal,
Police Training School,
Jhoranda Kalan,
New Delhi.

By Advocate Shri Surat Singh

ORDER

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

This application is directed against the impugned orders of the respondents by which applicant was imposed the punishment of forfeiture of 2 years of service temporarily reducing his pay by 2 stage for a period of 2 years without cumulative

effect. An incident of loss of bayonet took place in the Police Training School, Jharoda Kalan, New Delhi on 21.3.1990. A common departmental officials enquiry was instituted against three including the applicant. In the summary of allegations, the applicant was charged that he was responsible for the loss of bayonet on account of his contributory negligence. As it was obligatory for him to ensure proper deposit of the armaments in the Kot by the trainees, it was alleged that, instead of ensuring proper deposit of armaments, the applicant directed the monitor (Munshi) of the platoon of trainees to get the arms deposited in the Kot and the applicant himself left the Kot without getting clearance and it was found that one of the 24 bayonets issued to the trainees was found missing from the rack in the Kot. After enquiring into the matter on the basis of the allegations and on the findings of the Enquiry Officer that the charge against the applicant had been proved, the disciplinary authority after considering the written statement of the applicant held that the default of the applicant stood fully proved and he was accordingly awarded the aforesaid punishment. His appeal against this order was also rejected by the appellate authority. The applicant has, therefore, moved this Tribunal with a prayer for a direction to quash the order passed by the disciplinary authority and also the appellate

order.

2. The applicant has challenged the impugned orders on several grounds as follows:-

(i) The enquiry was not conducted in accordance with the relevant rules particularly Rules 15 and 16 of the Delhi Police (Punishment & Appeal) Rules, 1980.

(ii) The Enquiry Officer, the Disciplinary Authority and the Appellate Authority did not consider the records of the enquiry and they had gone beyond evidence in coming to their conclusions. The Inspector who conducted the enquiry was subordinate to the Assistant Commissioner of Police who had allegedly arrived at the wrong conclusion and, therefore, the Enquiry recommending the holding of departmental enquiry. Officer could not be impartial in the enquiry and, therefore, his finding cannot be relied upon and it is also perverse.

(iii) The applicant was not at all responsible for the alleged loss of the bayonet and according to the instructions it was the Kot. In-charge and his staff who had to check the arms and ammunition at the entry point of the Kot and it was, therefore, the responsibility of the Kot. In-charge for the loss of any arms and ammunitions inside the Kot. The alleged loss of bayonet took place inside the Kot after the departure of the platoon and the said bayonet was later on found lying behind the rack and, therefore, the applicant

in no way could be held responsible for the alleged loss.

(iv) In the enquiry, the person authorised to check the arms at the gate had mentioned before the Enquiry Officer that he had carried out the check at the entry point of the Kot and that all the arms and ammunitions had been received and he had also informed of this fact to the Head Constable Kot, who was present there.

(v) As the bayonet was never lost by the applicant but was found subsequently behind the rack, the allegation of his responsibility for the loss is not established at all.

3. The respondents in their reply have strongly contested the claims of the applicant. They have averred that the applicant took charge of platoon No.25 and in his capacity as Drill Instructor of the platoon, he was duty bound to exercise proper control and supervision over the trainees and as per Standing Order No. 46 it was obligatory on his part to ensure proper deposit of the arms in the Kot by the trainees. He passed on his responsibility to the monitor (Munshi) of the platoon to get the arms deposited in the Kot and he himself left the Kot without informing anyone. They have said that had the applicant been conscious of his duty, the loss of bayonet could have been averted. They have also said that the matter was properly inquired into by

the Enquiry Officer in the departmental proceedings and the applicant was given a personal hearing and was given opportunity to make any submission/representation in regard to the enquiry report. He could not adduce any plausible plea to refute that allegation and, therefore, the Enquiry Officer had returned the finding that the charge was proved and thereupon, he was imposed punishment of forfeiture of 2 years of approved service and reducing his pay by 2 years by a reasoned and speaking order and the appellate authority has considered his appeal and had rejected his appeal by a reasoned and speaking order.

4. We have heard the learned counsel for the parties and have carefully perused the record.

5. We find that the allegation against the applicant was that he was found to be negligent which resulted in the temporary loss of the bayonet in the Kot as he had not ensured proper deposit of the arms by the trainees to the Kot.In-charge. We find that the elaborate enquiry has been conducted into the matter and the Enquiry Officer after considering the statements of the witnesses including the defence witnesses of the applicant held that the applicant was fully responsible for the incident of temporary loss of the bayonet. He held that it was the duty of the applicant to get the rifles deposited in the Kot after the morning parade whereas the applicant directed the platoon munshi

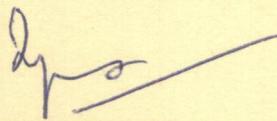
relating to preliminary enquiry is also not tenable. An enquiry into the said incident was stated to have been made by the Assistant Commissioner of Police, PTS and we do not find any violation of the aforesaid rule. It is only on the basis of the enquiry that the applicant along with two other officials were proceeded against and detailed departmental enquiry was ordered. We, therefore, do not find any substance in the contention of the applicant in this behalf.

7. From the material on record we find that the applicant had been given complete opportunity of defence and his written submision has been duly considered and he has been personally heard by the disciplinary authority. We do not find anything to hold that the enquiry had been vitiated on any ground or that the finding has been perverse. It is not the function of the Tribunal in a judicial review to reappraise the evidence and arrive at its own conclusion. It a well laid down law that the judicial review is not an appeal against the decision but only a review of the manner in which the decision making process has been gone into. In this connection decisions of the Apex Court in U.O.I. VS. P. Upendra Singh, JT 1993(1) page 658 and H.B. Gandhi Vs. Gopinath and Others, 1992 Supplementary 1(2) SCC page 312 would be relevant.

8. In the light of the aforesaid facts and

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circumstances and the law on the subject, we do not find any ground to interfere with the decisions of the disciplinary and appellate authorities. We, therefore, find no merit in the application and it is accordingly dismissed. In the circumstances, there shall be no order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)


(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

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