

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

(8)

OA 1739/1993

New Delhi this the 1st day of February, 1999.

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri N. Sahu, Member (A)

Sh. Mahabir Singh,
R/O Barrack No. 16
New Police Line,
Kingsway Camp, Delhi.

... Applicant

(None for the applicant)

Versus

1. The Commissioner of Police,
Police Headquarters, I.T.O.,
New Delhi.

2. The Addl. Commissioner of Police,
(Armed Police & Training),
Headquarters, I.T.O. New Delhi.

3. The Principal,
Police Training School,
Jharoda Kalan, New Delhi.

... Respondents

(By Advocate Shri Vijay Pandita)

ORDER (ORAL)

(Hon'ble Shri N. Sahu, Member (A))

This case has been listed at Serial No. 11 in today's cause list under the heading that cases of the year 1993 and earlier to that shall not be adjourned. We have waited till 3.30PM, neither the applicant nor his counsel was present. We, therefore, decided to dispose it of after perusing the pleadings on record and hearing the learned counsel for the respondents.

2. The relief claimed by the applicant is to set aside the impugned order dated 19.4.93 by which the appellate authority reduced the punishment awarded by the disciplinary authority from forfeiture of three years of approved service to one year of approved service temporarily entailing proportionate reduction in his pay.

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3. The admitted facts in this case are that Constables Surinder Prakash, Ram Naresh and Som Dev were suspended for not dispatching papers regarding leave without pay. In the findings of the enquiry, the Respondents had come to know that the applicant was also involved in the mal-practice of accepting illegal gratification of hushing up the papers of the trainee regarding grant of leave. The allegation was that the applicant demanded and accepted Rs.60/- as illegal gratification to hush up the papers of the trainee Constables. On the basis of the preliminary enquiry conducted, a departmental enquiry was ordered and the charge against the applicant that he approached one Constable Suraj Mai, trainee in lower school course, and demanded Rs.60/- ^{as} illegal gratification was found to be substantiated. A copy of the finding of the Enquiry Officer's report was sent to the applicant who thereafter filed his defence. The disciplinary authority considered the entire evidence and the charge against the applicant was held to be substantially proved. The appellate authority took a lenient view on the ground that the witnesses who deposed during the preliminary enquiry did not stand by the statements during the disciplinary enquiry. He reduced the punishment from forfeiture of 3 years approved service to one year. It is also relevant to note that the applicant has not filed any rejoinder.

4. We have carefully examined the grounds raised by the applicant in the OA and also considered the arguments of the learned counsel for the respondents who took us through the pleadings in this case. We are satisfied that the enquiry was conducted in accordance with procedure established in law. The Enquiry Officer's report was sent to the applicant and his explanation and defence were also considered by the disciplinary authority. Although the PWs did not support the evidence given during the preliminary enquiry, yet the circumstantial evidence pointed out to his misconduct. In the first place the applicant's name crept up during the enquiry in the case of

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Shri Som Dev and Surender Prakash. The applicant was posted in the personal Branch of PTS. The evidence in the course of enquiry of two Constables showed that he demanded Rs.60/- for hushing up the orders on sanction of one day leave in favour of Constable Suraj Mal. Constable trainee, Suraj Mal clearly stated that the applicant demanded and accepted the money from him and another Constable Subhash Chander who witnessed the transaction also mentioned the applicant's name. The applicant had completed inductional course during the term ended of January, 1990 and was working in the personal Branch. Therefore, the trainee became very familiar with him. Although the witnesses during the enquiry did not corroborate the earlier statement, yet they voluntarily signed ^{earlier} in those statements.

5. The preliminary enquiry was conducted by one Shri R.C. Mehta, ACP and thereafter a joint departmental enquiry was ordered. In applicant's ACR the reporting officer recorded that the departmental enquiry was pending against the applicant about this incident and as such his integrity was doubtful.

6. In view of the above discussion, we are satisfied that the enquiry was conducted against the applicant in a fair manner; opportunity was given to him; witnesses were also examined during both the preliminary and the disciplinary enquiry. The evidence was appraised by the disciplinary authority as well as by the appellate authority. They have come to the conclusion on the basis of the totality of the evidence gathered by them. In a judicial review, we are only to see as to whether the departmental enquiry was conducted properly in accordance with the rules prescribed for the purpose. We are satisfied that the impugned orders of punishment as well as the adverse entry in applicant's ACR do not warrant any judicial interference.

7. In the result, the OA fails and the same is accordingly dismissed. No order as to costs.

Paragimbaswami
(N. Sahu)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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