

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
NEW DELHI

O.A. No.207 of 1993 decided on 5.10.1998.

Name of Applicant : Shri Prem Nath

By Advocate : Shri Shyam Babu

Versus

Name of respondent/s Delhi Administration & ors

By Advocate : Shri Amresh Mathur

Corum:

Hon'ble Mr. N. Sahu, Member (Admnv)

Hon'ble Dr. A. Vedavalli, Member (J)

1. To be referred to the reporter - Yes/No

2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No

*N. Sahu*  
(N. Sahu)  
Member (Admnv)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.207 of 1993

New Delhi, this the 5<sup>th</sup> day of October, 1998

Hon'ble Mr. N. Sahu, Member(Admnv)  
Hon'ble Dr.A.Vedavalli, Member(J)

Shri Prem Nath (D-1596), son of Shri T  
R Gill resident of 5 Ashoka Police  
Line, New Delhi presenting working in  
the office of D.C.P., I.G.I. Airport,  
New Delhi

-APPLICANT

(By Advocate Shri Shyam Babu)

**Versus**

1. Delhi Administration through its  
Chief Secretary, 5 Sham Nath Marg,  
Delhi-110054.

2. Addl. Commissioner of Police, New  
Delhi Range, Police Headquarters,  
I.P.Estate, New Delhi.

3. The Deputy Commissioner of Police,  
East District, Delhi.

-RESPONDENTS

(By Advocate Shri Amresh Mathur)

**ORDER**

By Mr. N. Sahu, Member(Admnv) -

The prayer in this Original Application is  
to quash the impugned order of punishment dated  
20.9.1986; the impugned appellate order dated  
10.9.87 along with supplementary order dated 31.7.91  
and the supplementary appellate order dated 28.7.92;  
on the ground inter alia that the punishment was  
violative of provisions of Rule 8(d) of Delhi Police  
(Punishment & Appeal) Rules, 1980 (hereinafter  
referred to as "the 1980 Rules" because this  
punishment imposes double jeopardy and is violative  
of Article 20 of the Constitution and Section 21 of  
Delhi Police Act. The impugned orders are stated to  
be absolutely non-speaking orders and the submissions  
made by the applicant in reply to the show cause

notice were not considered. The most important ground taken by the applicant is that the impugned order of punishment is violative of Rule 16(x) of the 1980 Rules which provides that the disciplinary authority shall pass an order in respect of each charge. The authority merely passed a perfunctory non-speaking order without giving a finding of guilt or otherwise on each of the two charges. It is also submitted that the enquiry officer ignored the evidence on record and although all the prosecution witnesses supported the case of the applicant, the enquiry officer gave findings which are contrary to the evidence on record. The applicant impugns the enquiry report as perverse and arbitrary.

2. On 22.7.1998 we have recorded the following proceedings after hearing both the counsel -

"Heard Shri Shyam Babu, counsel for the applicant and Shri Amresh Mathur, counsel for the respondents. Shri Shyam Babu raised the following points. The first point is that the punishment order at page 47 imposes punishment of permanent forfeiture of five years approved service with cumulative effect. This order was passed on 20.9.86 and this is confirmed in appeal. It is argued that as on 20.9.86 when the punishment was imposed, the applicant was drawing a pay of Rs.1700/-. They reduced his pay to Rs.1640/- which is the initial slab in the scale thereby depriving him one increment of 60 rupees. He was thereafter enjoying increments but by an order dt. 12.5.92 at page-82 of the paper book the increments for the period upto 1.2.89 beginning from 1.2.87 were cancelled. Shri Shyam Babu states that having decided to punish the applicant by way of forfeiture of approved service this punishment could be only within the parameters of Rule 8(d) of Delhi Police (Punishment & Appeal) Rules 1980. According to him since the only increment was withdrawn by reducing his pay to the minimum, he suffered the penalty of cancellation of increments earned. He states that a second

order dated 12.5.92 could not again be passed. He has drawn our attention to Rule 8(d) sub rule-2 to plead that one of the three alternative punishments can be only imposed and not more than one as they have done in this case. Learned counsel for the respondents concedes that Rule 8(d) was not properly applied and complied with.

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The next point taken by Shri Shyam Babu is that the applicant was suspended on 18.2.82. He has drawn our attention to Rule 27 of the Delhi Police (Punishment & Appeal) Rules, 1980. According to him the Police Officer can be suspended only when it appears likely that the charges framed will render him liable to dismissal or removal from service. If ultimately on the conclusion of disciplinary proceedings he was neither dismissed nor removed from service, then the suspension period should be treated as spent on duty. He, therefore, challenges the finding in the penalty order at page 47 that the suspension period will not be treated as a period spent on duty. Shri Mathur opposes the applicant in this regard and states that the respondents are fully competent to treat the suspension period as not spent on duty. They have adequate powers for the same.

The next point urged by Shri Shyam Babu is that the Inquiring Authority has not given the finding on each charge: whether it is proved or not? He cites AIR 1985 SC 1121 and also refers to Rule-16 sub-clause 9 of the Delhi Police Punishment & Appeal Rules 1980. Shri Shyam Babu further states that in the penalty order the Enquiry Officer had not dealt with the defence of the applicant at all and did not discuss the merits of each charge. Shri Mathur Counsel for the respondents concedes that the punishment order suffers from the above lacuna and is not in accordance with rules but prays that the matter may be remanded back to the disciplinary authority to re-start from the stage of enquiry in accordance with rules. Shri Shyam Babu however states that in the facts and circumstances of this case remand is totally uncalled for."

3. The learned counsel for the applicant stated that the enquiry officer has not given a finding on each charge in violation of Rule 16(ix) of the 1980 rules. Secondly, the enquiry officer has not taken into account any portion of the defence evidence at all in his enquiry report. The learned counsel for

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the applicant has cited the following decisions -

Chanan Singh Vs. Co-op. Societies, Punjab AIR 1976

SC 1821 and P.R. Nayak Vs. Union of India AIR 1972 SC

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4. We are satisfied after the concession and admission of the learned counsel for the respondents in the last paragraph of the above extract that the order of penalty imposing the punishment stands vitiated. We, however, find that we are unable to agree with the learned counsel for the applicant to quash the entire disciplinary proceedings. The applicant was accused of several instances of alleged dereliction of duties which, if proved, would indeed amount to serious misconduct although the matter pertains to the alleged misconduct of the applicant way back in 1981-82. Because the punishment imposed was not in accordance with the rules and because there was no finding on each individual charge, we would remand the case back to the disciplinary authority to study the evidence and inquiry report again and complete the proceedings within a period of 24 weeks from the date of receipt of a copy of this order. We direct the disciplinary authority to peruse the evidence and arrive independently at findings on each charge and pass an order appropriate to the available evidence and gravity of the offence. We would, however, direct that a fresh show cause notice be issued once again to the applicant to state

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his defence. It is necessary for the disciplinary authority to apply his mind afresh and pass an order in accordance with law.

5. In the result, the order of penalty and the appellate orders, both original and supplemental, are hereby quashed. If the revised order is not passed within the time limit of 24 weeks, from the date of receipt of a copy of this order, the disciplinary proceedings shall stand abated and the applicant shall be considered to be in service from the date he was suspended as though no offence was committed by him and all the consequential benefits shall follow. The disciplinary authority, meeting the grounds by the applicant in this O.A., shall pass an order after objectively considering all aspects of evidence. We direct them also to pass an order as to how they would treat the period of suspension. If the applicant has any grievance with the revised order, he is free to move this Court once again. Till the fresh order is passed, there shall be status quo preserved in the existing status of the applicant. The O.A. is disposed of. No costs.

A. Vedavalli  
(Dr. A. Vedavalli)  
Member (J)

N. Sahu  
(N. Sahu)  
Member (Admnv)

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