

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 2432/93

New Delhi, this the 11th day of December, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

Head Constable Rajbir Singh No. 11016/DAP
son of Shri Lal Chand
presently posted in 10th BN. DAP,
R/o village Bakarwala,
P.S. Nangloi
Delhi.

.... Applicant

(By Advocate: Sh. Shankar Raju)

Vs.

1. Delhi Administration (Govt. of N.C.T.D.)
(through: Addl. Commissioner of Police),
Northern-Range, Police Headquarters,
M.S.O. Building,
New Delhi.

2. Deputy Commissioner of Police,
North-West Distt.,
Ashok Vihar,
Delhi.

.... Respondents

(By Advocate: Sh. Anil Singhal proxy for
Sh. Anoop Bagai)

ORDER

delivered by Hon'ble Shri T.N. Bhat, Member (J)

This OA is directed against the order dated 26.7.91 issued by Dy. Commissioner of Police, North-West Distt., Ashok Vihar, Delhi, Resp. No. 2 herein, by which, after completion of the disciplinary enquiry, a major punishment of permanent forfeiture of approved service of 3 years alongwith reduction of pay for 2 years, withholding of increment and postponement of future increments has been imposed upon the applicant and the period of suspension w.e.f. 28.9.89 to 26.7.91 has been treated to be not spent on duty.

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2. The appellate order dated 15.7.93 passed by the Addl. Commissioner of Police has also been assailed. The applicant has further challenged the findings of the enquiry officer recorded in his report dated 31.5.91.

3. A number of grounds have been taken in the OA but we need confine ourselves only to one of the grounds, as the learned counsel for the applicant has during the course of his arguments restricted his submissions to only that ground. It is contended by the applicant that the charge against the applicant, as contained in the summary of allegations, has not been established and that according to the report of the enquiry officer as upheld by the disciplinary authority some other allegations have been held to be established which were not the subject matter contained in the summary of allegations.

4. We have heard the learned counsel for the applicant and the learned proxy counsel for the respondents and have perused the material on record.

5. The charge against the applicant contained in the summary of allegations, as at Annexure A-2, is as follows:-

"It is alleged against HC Rajbir Singh No. 58/NW while posted at P.S. Shalimar Bagh during the mid-night on 16/17.2.89 one Sh. Om Prakash Kapoor r/o LU-108, Pitam Pura, Delhi was taken to P.S. Shalimar Bagh by Ct. Prem



Singh No. 966/NW. He alongwith SI Mahabir Singh and Ct. Prem Singh connived in illegally detaining and extorting money from Sh. Kapoor."

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"The above act on the part of HC Rajbir Singh No. 58/NW amounts to gross misconduct remissness and dereliction in the discharge of his official duties for which he is liable to be dealt with departmentally under provision of Sec.21 of Delhi Police Act. 1978."

6. The enquiry officer in his report as at Annexure A-5 records his findings as under:-

"After going through the evidence of the file the charge against Ct. Prem Singh could not be substantiated, allegations of misbehaving and harassment is substantiated against HC Rajbir Singh while all the allegations are substantiated against Ex-SI Mahabir Singh."

7. Thus, the charge of conniving in illegally detaining and extorting money from the complainant has not been established against the applicant though these allegations have been found established against the main culprit, namely, Mahabir Singh. We may also mention here that in the contents of the charge framed against the applicant, as at Annexure A-3, it is alleged that the applicant had "connived in illegally obtaining and extorting money" from Sh. Om Prakash Kapoor, the complainant. There is no mention of illegal detention in this charge. We may repeat that the allegation contained in the summary of allegations against the applicant was

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that he had in some manner connived at illegally detaining and extorting money from the said Sh. Kapoor. The finding of the enquiry officer is on a different charge, viz., misbehaviour and harassment. We, therefore, find much force in the contention of the learned counsel for the applicant that the finding did not relate to the charge that was initially framed against the applicant. The applicant, therefore, had no opportunity to defend himself against the charge which was eventually found established against him. In our considered view, the impugned orders are liable to be quashed on this ground alone.

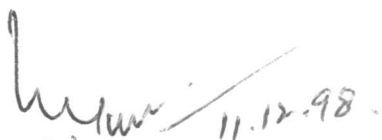
8. We do not find any merit in the contention of the learned counsel for the respondents that illegally detaining a person and extorting money from him would itself amount to misbehaviour and harassment.

9. For the foregoing reasons, we allow this OA and quash the impugned order of punishment as also the appellate order. We, however, leave it open to the respondents to hold fresh proceedings against the applicant, if they choose to do so.

No costs.


(S.P. BISWAS)
Member (A)

sd


(T.N. BHAT)
Member (J)
11.12.98.