

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2534/93

New Delhi this the 12th Day of July 1999

Hon'ble Mr. V. Ramakrishnan, Vice Chairman (A)
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

Shri Jagdish Parkash, Singh No. 998/C
S.I. No. 1940/D,
8th Bn. DAP, Malviya Nagar,
New Delhi.

Applicant

(By Advocate: None)

Versus

1. Delhi Administration,
Through Commissioner of Police,
Police Headquarters,
I.P. Estate, New Delhi.
2. Additional Dy. Commissioner of Police,
North Range, Delhi Police,
New Delhi.
3. Deputy Commissioner of Police,
Central District, Delhi.
4. Assistant Commissioner of Police,
Headquarters, Central District,
(Enquiry Officer), Delhi.

Respondents

(Departmental Representative Shri Ranvir Singh, Constable)

ORDER (Oral)

Hon'ble Mr. V. Ramakrishnan, Vice Chairman (A)

The applicant has challenged the order of the Respondent No. 3 dated 25.6.1991 under which the DCP has acted suo moto against the applicant and awarded the punishment of forfeiture of three years approved service permanently for a period of 3 years entailing proportionate reduction in his pay substituting it for the penalty of censure inflicted by the ACP. One of the main grounds in support of the O.A. is that the initiation of fresh departmental proceedings after the earlier proceedings against the applicant were already concluded is illegal as the charge was the same. In this connection the applicant refers to the order dated 26.9.1990 of the Additional

(8)

Commissioner of Police at Annexure 'C' which has quashed on administrative grounds the order of the ACP inflicting the penalty of censure as it decided for conducting regular DE against him. Orders were communicated for conduct of the regular proceedings against the applicant. The charge against the applicant was that he did not take legal action even though he was entrusted with the investigation of a case FIR No. 172 dated 1.6. 90 for criminal trespass. A show cause notice was issued to him which was acknowledged by the applicant but despite reminder he did not file any reply. The disciplinary authority Asstt. C.P. proceeded to take an ex-parte decision by order dated 13.8.1990, Annexure 'B' imposing the penalty of censure. The applicant has stated that he did not file any appeal against this order. This order was subsequently set aside by the Additional Commissioner of Police dated 26.9.1990, (Annexure 'C') and a fresh inquiry was held which resulted in the penalty of forfeiture of three years service imposed by the Disciplinary Authority and confirmed by the Appellate Authority. In compliance with the order dated 26.9.1990 at Annexure 'C' the DCP has ordered a fresh Departmental Enquiry under Section 21 of the Delhi Police Act which is in supersession of the earlier order. We find that Section 21 of the Delhi Police Act empowers the various authorities including the Commissioner of Police, Additional Commissioner of Police and DCP for inflicting major penalties while the ACP can inflict the penalty of censure. In terms of this Section, the ACP has already acted and issued a show cause notice to the applicant and after getting no reply took an ex parte decision, censuring the applicant.

(a)

2. The question arises as to whether the Additional C.P. can quash this order and order a fresh departmental enquiry in respect of the same allegation. We find that he did not have any such power. The competent authority having acted under Section 21, the course available to the administration was to act on an appeal. Rule 25 of the Delhi Police (Punishment and Appeal) Rule empowers the Appellate Authority to enhance the punishment after issue of a fresh show cause notice. This Rule is not relevant in this case as no appeal has been filed against the order of censure. Rule 25.B empowers the Commissioner of Police, Additional C.P. and DCP to enhance the punishment after giving an opportunity to the delinquent but we find that Rule 25.A and 25.B were added to the relevant Rules only in 1994. The impugned order of the DCP dated 25.6.1991 substituting the punishment of forfeiture of three years service in place of the penalty of Censure could not have been done under this Rule as it was not then in existence.

3. We therefore find that the action of the Additional C.P. quashing the penalty of Censure which was imposed by the ^{Asstt} ~~Additional~~ C.P. under Section 21 and ordering a fresh enquiry on the same allegation and the subsequent action in holding a fresh enquiry resulting in the order of Disciplinary Authority and the Appellate Authority cannot be sustained. In view of this finding, it is not necessary for us to go into the other contentions as the orders of the Additional C.P. dated 26.9.1990 at Annexure 'C' which was the starting point for holding the second enquiry is without jurisdiction.

(*) Complied with Courts
order dated 27.3.2000

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4. We accordingly quash and set aside the order of the Addl. C.P. dated 26.9.1990, Annexure 'C' and subsequent order dated 17.10.1990 initiating fresh enquiry (Annexure 'D') and the order of Disciplinary Authority dated 25.5.1991 (Annexure 'H') and the order of the Appellate Authority dated 26.7.1993 at (Annexure 'I').

5. In view of our direction quashing the order dated 26.9.1990, the punishment of censure imposed by the ~~Additional~~ ^{Asstt} Commissioner of Police revives. The O.A. is accordingly disposed of. No costs.

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Member (J)

V. Ramakrishnan

(V. Ramakrishnan)
VC (A)

Mittal

⑩ Corrected order
Count's order dated 27.3.2000
6