

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

D.A.No.814/93

New Delhi: this the 1st day of JUNE, 1999.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MR. JASBIR SINGH DHALIWAL, MEMBER (J).

Constable Jai Pal Singh No. 412/DAP,
S/o Shri Murari Lal,
presently deployed in Ist. BN. DAP Delhi Police,
R/o Vill. & P.O. Basola,
NOIDA, Distt. Ghaziabad (UP). Applicant.

(By Advocate: Shri Shankar Raju).

Versus

1. Delhi Administration,
through Addl. Commissioner of Police,
(Operations), Police Headquarters,
MSO Building,
IP Estate,
New Delhi.

2. Deputy Commissioner of Police,
Police Control Room,
Police Headquarters,
MSO Building,
I.P. Estate,
New Delhi Respondents.

(By Advocate: Shri Vijay Pandita)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A):

Applicant impugns the Enquiry Officer's findings (Annexure-A5), the Disciplinary Authority's order dated 28.11.91 (Annexure-A8) and the appellate authority's order dated 22.6.92 (Annexure-A10) and seeks restoration of reduced pay with increments and other consequential benefits.

2. It is alleged that on 5.12.90 H.C. Surjeet Singh and Constable Driver Daya Nand were on duty

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at PCR Van No. V-125 from 8 a.m. to 8 p.m. During the special checking of vehicles (10 a.m. to 12 noon) at about 11.45 Inspector Ishwar Singh had checked the aforementioned PCR Van near Birla Mandir. Applicant and Home Guard Baljeet Singh were also on duty there. H.C. Surjeet Singh and applicant were stopping scooters and motor cycles coming from Karol Bagh and Paharganj side with some luggage. They stopped scooter No. DL-45-A-2156 and relieved him after checking. Meanwhile Shri Surinder Singh rider of Motor Cycle No. DNK-1693 reported in writing that he was stopped by this Van Staff and they took Rs. 20/- from him. On this information the Inspector checked/searched the PCR Van and he found Rs. 30/- (1 twenty rupee note and 1 ten-rupee note) behind the driver/ In charge-sheet.

3. For this misconduct H.C. Surjeet Singh, and Constable Driver Daya Nand were placed under suspension on 7.12.90 and were later reinstated on 31.1.91.

4. Meanwhile a DE was initiated against H.C. Surjeet Singh, Constable Driver Daya Nand as well as against applicant. The Inquiry Officer in his findings held the charges against all three defaulters as proved. On receipt of the Inquiry Officer's report all 3 defaulters were asked to show cause why the punishment of reduction in pay by 3 stages during which period they would not earn increments and on the expiry of which it would postpone their further increments of pay should not be inflicted upon them.

5. On receipt of applicant's reply the same was considered by the Disciplinary Authority upon which

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he confirmed the aforesaid punishment by impugned order dated 28.11.91 against which the appeal was rejected by order dated 22.6.92.

6. We have heard both parties.

7. Various grounds have been taken in the OA. Applicant's counsel Shri Shankar Raju has however drawn attention to the manner in which the Inquiry Officer has dealt with the entire testimony of the DWS in the following words occurring in para 7 of his report, just before his conclusion.

"All the DWS, as the DWS are always interested witnesses, have tried to save defaulters from the allegations.

But are not supposed to be relied upon."

8. Shri Shankar Raju has emphasised that the above extracts are sufficient to show the perfunctory, casual and biased manner in which the Inquiry Officer has dealt with the entire defence of the applicant which is sufficient to quash the entire proceedings. In this connection he has relied upon the Hon'ble Supreme Court's judgment in Anil Kumar Vs. Presiding Officer- 1985(3) SCC 378.

9. We have considered the matter carefully. The Inquiry Officer to whom the inquiry has been delegated by the Disciplinary Authority perform a quasi-judicial function. He is expected to record the testimony of the prosecution witnesses as well as the Defence witnesses and after properly weighing the evidence by due application of mind, come to an objective and impartial finding as to whether the delinquent is guilty of the misconduct alleged or not. The

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testimony of each of the witnesses, whether from the prosecution or from the defence has to be carefully examined, weighed and only then can the testimony be accepted or rejected. There is merit in Shri Shankar Raju's contention that the aforementioned extracts from the Inquiry Officer's findings on which both the Disciplinary Authority and the appellate authority have based their orders, is not only a perfunctory and superficial assessment of the testimony led in defence, but the observation that DIs are always interested witnesses and are not supposed to be relied upon, betrays an unfortunate lack of objectivity and impartiality.

10. This ground alone is sufficient to quash the Inquiry Officer's findings in so far as it relate to applicant, as well as the Disciplinary Authority's order dated 28.11.91 as well as the appellate authority's order dated 22.6.92 in so far as both these orders relate to applicant.

11. Accordingly the same are quashed and set aside to the extent they relate to applicant. Respondents are directed to restore applicant's reduced pay with arrears, increments and other consequential benefits within 3 months from the date of receipt of a copy of this order. It will be open to respondents to proceed in the matter from the stage of completion of the recording of the evidence on behalf of the defence, strictly in accordance with law. No costs.

Jasbir Singh
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(JASBIR SINGH DHALIWAL)
MEMBER(J)

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(S. R. ADIGE)
VICE CHAIRMAN (A).