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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 98 /19 93

DATE OF DECISION : 21-07-98

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI N.SAHU, MEMBER (A)

Ashok Kumar Singh ... Applicant(s)

-Versus-

Delhi Admn & ors. ... Respondent(s)

Advocates :

Mr./Ms. Shyam Babu for Applicant(s)

Mr./Ms. Arun Bhardwaj for Respondent(s)

1. Whether to be referred to Reporter? yes

2. Whether to be circulated to other Benches?

Km

(K. M. Agarwal)
Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 98/93

NEW DELHI, THIS THE 21st DAY OF JULY, 1998.

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN
HON'BLE MR.N.SAHU, MEMBER(A)

Shri Ashok Kumar Singh
S/o Shri Beni Singh
R/o Quarter No.J-2/3, Type-II
Andrews Ganj, New Delhi ...

...Applicant

(By Advocate Shri Shyam Babu)

vs.

1. Delhi Administration, Delhi
through its Chief Secretary
5, Sham Nath Marg
Delhi.
2. Addl. Commissioner of Police (AP)
Police Headquarters, I.P.Estate
New Delhi-110 002.
3. Deputy Commissioner of Police
Ist Bn., D.A.P. Kingsway Camp
Delhi.

....Respondents.

(By Advocate Shri Arun Bhardwaj)

ORDER

JUSTICE K.M.AGARWAL:

This O.A. by a dismissed A.S.I. (Ministerial) in Delhi Police challenges the enquiry report, the order of dismissal by the disciplinary authority, and the dismissal of his appeal by the appellate authority. They have been filed as Annexures L, M and R.

2. In September, 1991 the applicant was functioning as A.S.I. (Ministerial) in the General Branch of Ist Bn. of D.A.P., Delhi. He was chargesheeted for certain misconduct on 25.10.1991. After D.E., he was found guilty of the charges framed against him and accordingly on the basis of the enquiry report, he was dismissed from service. The order was affirmed in appeal. Hence, the applicant has filed the said O.A. for the said reliefs.

3. The learned counsel for the applicant argued the case orally for a short while after filing detailed written arguments in support of the application. The learned counsel

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for the department also filed written arguments after a day or two from the date of arguments.

4. After perusing the written arguments filed on behalf of the applicant, what we find is that the main grievance of the applicant is denial of proper and fair opportunity to defend his case. It is said that the denial was in two respects. One, denial of opportunity to examine certain defence witnesses and two, denial of entry in the "premises of the DCP Ist Bn for the purpose of collecting evidence and/or material in defence." It was also alleged that the D.Ws. were threatened and asked not to give evidence in defence of the applicant.

5. Before we proceed to discuss, let us see certain pleadings and documents. In paragraph 4.2 of the application, it is alleged:

"4.2.....A departmental enquiry was arbitrarily started against the applicant on the allegation that while the applicant was posted in the General Branch of Ist Bn., DAP, he started throwing files and chairs about the verandah of the Administrative Block, N.P.L. and created chaos. It was also alleged that the applicant shouted using abusive language and he roamed in the verandah with his leather belt in his hand."

The summary of allegations, Annexure A, mentions:

"On 4.9.91 at about 1 P.M. ASI Ashok Kumar Singh No. 762/SB (Min) posted in the General Branch of Ist Bn.DAP started throwing files and chairs about the verandah of the Administrative Block, N.P.L. and created chaos. He shouted using abusive language. He roamed in the verandah with his leather belt in his hand. Later, he entered the office of the ACP/Adj./Ist Bn. and lifted the table to throw it but was over-powered. He was removed for medical check-up by the local police of P.S.Mukherji Nagar, Delhi. While being removed by the members of DAP Ist Bn. and local police he hit the ACP/Adj./Ist Bn. DAP in his stomach in front of his office."

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In paragraph 4.3 of his application, the applicant did not deny the scene created by him as alleged, but attributed it to his sickness and mental imbalance. Paragraph 4.3 reads as follows:

"4.3. The applicant submits that the allegations levelled against the applicant were arbitrary in a sense that on that day, the applicant was ill and due to illness the applicant's mind got im-balanced."

6. In the aforesaid back-ground, the applicant's grievance that he was not given proper opportunity to defend his case appears misplaced. Yet we proceeded to see the record and found that he wanted to examine the following six witnesses in defence by his application, Annexure E :-

- (i) Shri U.K.Katna Addl.CP.
- (ii) Dr. A.K.Dhingra
- (iii) SI Virender Kumar Gautam
- (iv) ASI Anil Kumar
- (v) HC Gyan Chand
- (vi) HC Gian Singh

As would be evident from the letter dated 21.4.1992, Annexure G, of the Inquiry Officer addressed to the Deputy Commissioner of Police, SI Virender Kumar Gautam, ASI Anil Kumar mentioned at Sl.Nos.(iii) and (iv) above were examined as Defence Witnesses. Dr. A.K.Dhingra, at Sl.No.(ii) above refused to join the D.E. proceedings as Defence Witness for the applicant. HC Gian Chand at Sl.No.(v) above was already examined as P.W. Of course, Shri U.K.Katna, Addl. CP at Sl.No.(i) above was not allowed to be produced as D.W. on the ground that it was not necessary to examine him as such. The last person, HC Gian Singh at Sl.No.(vi) above could not be produced by the applicant. As indicated in paragraph 4.3 of the O.A.:

".....He was also treated by Dr.A.K.Dhingra whom he had called as a defence witness in his case, but due to the pressure of the Asstt. Commissioner of Police, Adjutant, Ist Bn., Shri P.Dass, the witness refused to depose in the Departmental Enquiry."

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He wanted to examine Shri U.K.Katna, Addl.CP to prove that one Shri P. Dass, ACP, responsible for initiation of the D.E. was prejudiced against the applicant. He wanted to show that Shri P.Dass had tried to issue a censor notice which was turned down by Shri U.K.Katna and, therefore, Shri P.Dass had become hostile to the applicant.

7. We are of the view that nobody could be blamed if Dr.A.K.Dhingra refused to give evidence as D.W. of the applicant. The allegation that he was pressurised by Shri P.Dass or any other officer is not borne out from the record. Be that as it may. The only purpose of examining Dr.A.K.Dhingra was to show that the applicant was sick and mentally upset and that he was getting treatment from Dr. A.K.Dhingra. Even if these facts are true, the applicant could not justify his behaviour as alleged in the charges against him. Similarly because Shri P.Dass wanted to serve him with a censor notice which was turned down by Shri U.K.Katna was not sufficient to hold that the evidence of Shri U.K.Katna was necessary in D.E. proceedings. The fact remains that the applicant has not denied the allegations levelled against him. He tried to justify his mis-behaviour on the ground of his sickness and mental unfitness. They can hardly justify the serious misconduct committed by the applicant, which was the basis for initiating the D.E. against him. The allegation that the Defence Witnesses of the applicant were threatened by the Inquiry Officer or asked to refrain from giving any evidence in defence of the applicant by the Inquiry Officer or any other officer also appears to be baseless. The language used by the applicant in his two letters addressed to the two Deputy Commissioners of Armed Police Delhi, filed as Annexures F and H would show that one could not expect decent or disciplined behaviour from him. For all these reasons, we are not satisfied that the applicant was not allowed to examine certain witnesses or that any prejudice could be caused to him

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for that reason.

8. The second part of the applicant's grievance was denial of entry in the "premises of the DCP Ist Dn. for the purpose of collecting evidence and/or material in defence." Now in this connection, Chapter 3 dealing with Suspension and General Instructions in that regard at page 202 of Swamy's Compilation of CCS CCA Rules, 22nd Edition may be referred. It has been mentioned that the following circumstances are indicated by the Government in which a disciplinary authority may consider it appropriate to place a Government servant under suspension:

(i) Cases where continuance in office of the Government servant will prejudice the investigation, trial or any inquiry (e.g., apprehended tampering with witnesses or documents);

(ii) Where the continuance in office of the Government servant is likely to seriously subvert discipline in the office in which the public servant is working.

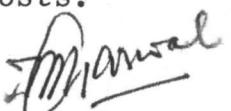
The purpose alleged by the applicant for going to the office was to collect evidence and/or material to be used in his defence. If this was the purpose and he was refused entry into the office premises, we think, no grievance can be made by the applicant in that regard. Looking to the nature of rowdism created by him and the language employed by him in his letters, Annexures F and H, against his superior officers justify the restraint against his entry into the office premises in order to maintain the office discipline.

9. The lengthy written arguments submitted by the learned counsel for the applicant would show as if they were addressed to an appellate Court. If there is material to support the finding of the Enquiry Officer, which was acted upon by the disciplinary authority, we think, no case for interference is made out. After the admission made by *Km* applicant in paragraph 4.3 of his application about his

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misconduct, what more remained to be proved in defence? His sickness and mental imbalance? Or treatment he got from a doctor after the incident? There is no material on record to show that the applicant was mad or declared insane by any doctor. How can he justify his misbehaviour, which was serious in nature. We, therefore, hold that no injustice or prejudice was caused to the applicant even due to reasons stated by him. The impugned orders accordingly call for no interference.

10. For the aforesaid reasons, this O.A. fails and it is hereby dismissed, but without any order as to costs.


(K.M. AGARWAL)
CHAIRMAN


(N.SAHU)
MEMBER (A)