

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

C.P.NO.563 OF 2016
(In OA No.3543 of 2012)
15th May, 2017

CORAM:

**HON'BLE SHRI SHEKHAR AGARWAL, ADMINISTRATIVE MEMMBER
AND
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER**

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Shaji S.V.,
S/o Sh.K.Sivanandan,
R/o 203 Ptampura Village
Delhi 110034

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Petitioner

(By Advocate: Shri Ajesh Luthra for Mrs.Jyotsna Kaushik)

Vs.

1. Ashok Kumar Verma,
Commissioner of Police,
PHQ, MSO Building,
I.P.Estate, New Delhi
2. Dependra Pathak,
Jt. Commissioner of Police,
Southern Range (Now South-
Western Range),
PHQ,I.P.Estate,
New Delhi

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Respondents

(By Advocate: Shri Vijay Pandita)

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ORDER

Per Raj Vir Sharma, Member(J):

We have perused the records, and have heard Mr.Ajesh Luthra for Ms. Jyotsna Kaushik, the learned counsel appearing for the petitioner, and Mr.Vijay Pandita, the learned counsel appearing for the respondents.

2. The applicant-petitioner had filed OA No.3543 of 2012 challenging the impugned order dated 13.2.2012 whereby a penalty of forfeiture of 4 years approved service permanently entailing proportionate reduction in his pay was imposed on him by the Appellate Authority (AA).

3. The Tribunal had disposed of the said O.A.No.3543 of 2012, vide order dated 16.7.2016, the relevant/operative part of which is reproduced below:

15. Therefore, the AA is obliged to consider the applicability and effect of the judgment of acquittal (Annexure A-4), in terms of Rule 12 *ibid*. The AA, however, can ignore its import on account of some exceptions contained in clauses (a) to (e) of Rule 12 *ibid*. The AA cannot partially accept the judgment of acquittal for setting aside the initial punishment of dismissal from service awarded by the DA vide (Annexure A-2) order nor can ignore the import of the judgment of acquittal for imposing a fresh penalty of forfeiture of 4 years approved service permanently, on speculative and untenable grounds. The AA was required either to accept or reject the judgment of acquittal in toto and not otherwise in terms of Rule 12 of D.P. Rules. Hence, the impugned order cannot legally be sustained.

16. No other point, worth consideration, has been urged or pressed by learned counsel for the parties.

17. In the light of the aforesaid reasons and without commenting further anything on merit, lest it prejudice the case of either side during the course of subsequent hearing by the AA, the OA is partly allowed. The impugned order dated 13.02.2012 (Annexure A-1), is hereby set aside. The case is remitted back to the AA for considering the matter afresh in the light of aforesaid observations, and to pass an appropriate order in terms of Rule 12 and in accordance with law, within a period of 2 months from the date of receipt of a copy of this order.ö

4. After the matter was remitted back by the Tribunal, vide order dated 16.7.2016(*ibid*), the AA considered the applicant's appeal and passed an order dated 6.10.2016 rejecting his appeal.

5. In the present Contempt Petition, it has been alleged by the applicant that the order dated 6.10.2016(ibid) passed by the AA is not in terms of Rule 12 of the Delhi Police (Punishment & Appeal) Rules, 1980. Thus, the respondents have deliberately disobeyed the Tribunal's order dated 16.7.2016 (ibid) and have thereby committed contempt of the Tribunal, for which contempt proceedings should be initiated against them, and they should be punished under the Contempt of Courts Act.

6. On behalf of the respondents, a compliance affidavit was filed on 14.12.2016. Relying on the decisions of the Hon'ble Supreme Court in **Indian Airport Employees Union Vs. Ranjan Chatterjee**, (1999) 2 SCC 537; and **J.S.Parihar Vs. Ganpat Duggar and others**, (1996) 6 SCC 291, and the decision of this Tribunal in **Sunil Kumar Vs. Govt. of NCT of Delhi**, CP No.116/2014 in TA No.43 of 2013, decided on 25.9.2014, it has been submitted by the respondents that in compliance with the Tribunal's order dated 16.7.2016(ibid), the AA has passed the order dated 6.10.2016(ibid) and, therefore, there is no "willful disobedience" of the Tribunal's order dated 16.7.2016(ibid).

7. In compliance with the Tribunal's order dated 11.1.2017 passed in the present CP, the respondents filed

another compliance affidavit on 14.3.2017 stating, inter alia, that the AA once again considered the applicant's appeal in accordance with Rule 12 of the Delhi Police (Punishment & Appeal) Rules, 1980 and passed a fresh order dated 4.2.2017 rejecting the applicant's appeal. The relevant/operative part of the order dated 4.2.2017 passed by the AA is reproduced below:

“In compliance of orders dated 11.01.2017 passed by the Hon'ble Central Administrative Tribunal, an examination of record shows that initially the appellant was held guilty for the offence punishable under section 456 IPC and the Hon'ble Court considering relevant facts sentenced the appellant to undergo rigorous imprisonment of one year along with fine of Rs.4000/- in default to undergo simple imprisonment for one month. Thereafter in appeal, the Hon'ble Court of ASJ, Rohini, Delhi acquitted him by giving benefit of doubt vide order dated 07.01.2011. I have examined the acquittal order dated 07.01.2011 in terms of Rule-12 of Delhi Police (Punishment & Appeal) Rules, 1980. As the main prosecution witnesses changed their track while deposing before the Hon'ble Court, after giving benefit of doubt, the appellant was acquitted in the instant case. As such the matter attracts the provisions of clause (b) & (c) of Rule 12 of the Delhi Police (Punishment & Appeal) Rules, 1980. Since the acquittal was granted on benefit of doubt, I am of the considered view that the appellant is directly responsible for the lapse, for which a departmental enquiry was conducted against him. The pleas advanced by the appellant in his appeal against dismissal have no merit as he had miserably failed in maintaining proper conduct and decorum required in a disciplined department. Hence the punishment awarded by the disciplinary authority is commensurate to the misconduct committed by the appellant. The order regarding rejection of appeal

issued vide No.2039-44/P.Sec.SWR(SI-A) dated 06.10.2016 holds good and require no further intervention.”

8. In the above view of the matter, it can by no stretch of imagination be said that the respondents have disobeyed the Tribunal's order dated 16.7.2016(ibid). Therefore, no case of contempt of this Tribunal is made out against the respondents.

9. Resultantly, the Contempt Petition is dismissed, and the notices issued against the respondent-opposite parties are discharged. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SHEKHAR AGARWAL)
ADMINISTRATIVE MEMBER

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