

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-4506/2013

Reserved on : 23.08.2017.

Pronounced on : 04.09.2017.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Hon'ble Mr. Raj Vir Sharma, Member (J)

Ms. Ajinder Kaur,
D/o Sh. Nirmal Singh,
R/o H.No. B-86, Gurdwara Road,
Mahavir Enclave, New Delhi-45.

.... Applicant

(through Sh. Ajesh Luthra, Advocate)

Versus

1. Commissioner of Police,
PHQ, MSO Building,
IP Estate, New Delhi.
2. Addl. Commissioner of Police
(Traffic),
PHQ, MSO Building,
IP Estate, New Delhi.
3. Deputy Commissioner of Police
Traffic (WR)
MIG Chowki, Rajouri Garden,
Delhi.
4. Deputy Commissioner of Police
Traffic)HQ)
Toda Pur Line,
New Delhi.
5. Addln. Commissioner of Police
(Vigilance)
PHQ, MSO Building,
IP Estate, New Delhi.
6. Deputy Commissioner of Police
(Establishment)

PHQ, MSO Building,
IP Estate, New Delhi.

7. Deputy Commissioner of Police
(Land & Building)
PHQ, MSO Building,
IP Estate, New Delhi.

..... Respondents

(through Ms. Ritika Chawla, Advocate)

ORDER

Mr. Shekhar Agarwal, Member (A)

The applicant is working as Head Constable in Delhi Police. According to her, she got married to one Sh. Vijay Kumar Naru on 10.02.2002, who is also a Sub-Inspector in Delhi Police. However, due to marital discord, she has been staying away from her husband for substantial period commencing from 15.12.2004. From the wedlock two sons were also born, who are living with the applicant. She has lodged an FIR against her husband and inlaws for cruel treatment meted out to her. Besides that, litigation for maintenance is also pending between them. The applicant has further submitted that her husband lodged a complaint against her due to which a departmental enquiry was initiated on 09.12.2009. The summary of allegations as served on her by the Enquiry Officer (EO) is as follows:-

“On receipt of complaint submitted by Sh. Vijay Kumar Naru, an enquiry was conducted by Inspr. V.K. Joshi, the then, RTI/Traffic. During the course of enquiry W/Head Constable Arjinder Kaur, No 500/T (PIS No. 28893695) has admitted that before her marriage, she was in possession of CGHS Card having the names of her father S. Nirmal Singh, Mother Smt. Balwant Kaur and younger sister Sarabjeet as her dependent.

This CGHS Card was not renewed by her during her posting in CAW Cell since February, 2001. She was married with Sh. Vijay Kumar Naru in the year 2002 but she failed to surrender the said CGHS Card while her name was included in the CGHS Card 103811 issued by ACP/Communication on 14/01/2005 that her CGHS Card has been lost and is not traceable. She also submitted application form dated 01/03/2005 for the issue of new CGHS Card showing the names of her father, mother, son & sister as her dependent without informing the competent authority that her name already exist in CGHS Card on 103811 for the deletion that her name already exist in CGHS Card No. 103811 for the deletion and the reasons for showing her parents, son and sister as her dependents in the New CGHS Card No. 0104812. She has also knowingly given false address i.e. C-4F/260, Janak Puri, Delhi on her CGHS card No. 0104812 to avail the facility of CGHS, however she never resides on the above-mentioned address.

During enquiry it is found that she was living with her parent in the year 2005 and as she needed some medical help she applied for a CGHS card in her name at the address of her parent and also included the names of her parents and sister as they were dependent on her and resided with her. But she applied for a new CGHS card in her name without mentioning the fact she is living separately from her husband and her name already exists in the CGHS card of her husband.

The above act on the part of W/Head Constable Arjinder Kaur, No. 500/T amounts to grave misconduct, negligence, carelessness and dereliction in the discharge of his official duties which render her liable to be dealt with departmentally under the provision of Delhi Police (Punishment & Appeal) Rules, 1980."

2. Accordingly, enquiry was held and the EO submitted his report on 30.06.2010 in which he held that the charge against the applicant had been substantiated. After considering the enquiry report and the applicant's representation thereon, the Disciplinary Authority (DA) passed an order on 12.01.2011 imposing a penalty of forfeiture of one year approved service temporarily for a period of

one year entailing subsequent reduction in her pay from Rs. 9710 +2400 G.P. to Rs. 9350 + 2400 G.P. The applicant filed an appeal against the aforesaid order, which was dismissed by the Appellate Authority (AA) vide order dated 15.05.2013. The applicant has now filed this O.A. challenging the orders passed in the disciplinary proceedings and seeking the following relief:-

- “(a) quash and set aside the impugned orders/action of the respondents placed at annexure A/1, A/2, A/3, A/4 and A/5 and direct accord of all consequential benefits forthwith.
- (b) award costs of the proceedings and
- (c) pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicant and against the respondents in the facts and circumstances of the case.”

3. In their reply, the respondents have submitted that the applicant got married to Sh. Vijay Kumar Naru in the year 2002 but failed to surrender the CGHS card, which was issued in her name prior to her marriage and which also contained the names of her father, mother and younger sister as her dependents. Her name also got included in the new CGHS Card No. 103811 issued by the ACP (Communication) on 14.01.2005 to her husband Sh. Vijay Kumar Naru. On 04.03.2005 the applicant reported at Police Post Nanak Pura that her CGHS card had been lost and was not traceable. She also submitted application form on 01.03.2005 for issue of new CGHS card showing the names of her father, mother, sons & sister as her

dependents without informing the competent authority that her name already existed in CGHS card No. 103811. A new CGHS card No. 104812 was issued to her. The applicant also knowingly gave false address while obtaining this new card. When this fact came to notice, a departmental enquiry was initiated against her and entrusted to Inspector Chamal Lal. The EO submitted his report in which the charge against the applicant was found to be proved. A copy of the findings was served upon her on 13.07.2010. She submitted her representation on the same on 11.08.2010. In her representation she mainly pleaded that the enquiry against her was initiated on a complaint made by her ex-husband Sub-Inspector Vijay Kumar Naru but the complainant never joined the preliminary enquiry conducted by Inspector V.K. Joshi. She submitted that it was Sub-Inspector Vijay Kumar Naru, who was using the CGHS card, which contains her name and her children.

4. The respondents have submitted that the enquiry has been conducted strictly according to Rules in which 04 PWs were examined. The applicant was given sufficient opportunity to defend herself and thus there has been no violation of the principles of natural justice. The applicant had given a list of defence witnesses but did not produce any in her defence. The charge against the applicant stood substantiated in the enquiry. Hence, after giving an opportunity to the applicant to represent against the enquiry report,

the punishment order was passed by the DA. An appeal made against the order of DA was also rejected by the AA.

5. We have heard both sides and have perused the material placed on record. The main ground taken by the applicant was that CGHS card No. 103811 was issued to her husband on his application. She was not aware that her husband had got her name included in this CGHS card. When this card was issued, she was staying separately from her husband due to marital discord and, therefore, he was not right in including her name or her sons' names as dependents on the card. Since she was not aware about issue of such a card to her husband, she cannot be faulted for getting another card issued in her favour.

6. Learned counsel for the respondents Ms. Ritika Chawla, however, drew our attention to pages-25 to 35 of the paper-book, which contain the enquiry report submitted by the EO. She drew our attention to the following observations made in the enquiry report:-

“....She accepted in one of her statement on the file that her husband also had CGHS card including names of herself and her both sons and she brings that card to dispensary but did not use her previous card. Therefore, she failed to surrender the CGHS card issued to her before marriage and retained the same even after her marriage. She also failed to inform the department while submitting application for renewal that her name and her son's name have already been included in the CGHS card issued to her husband from Communication unit.....”

Ms. Chawla pointed out that the applicant had herself accepted the charge in her statement.

7. Sh. Ajesh Luthra, learned counsel appearing for the applicant, however, argued that none of the exhibited documents contained this statement of the applicant and hence cannot form part of the enquiry. Therefore, the respondents have erred in holding that the charge against the applicant stood proved because of the statement of the applicant herself

8. To ascertain the facts, we have also perused the original enquiry file of the department. A perusal of that reveals that a preliminary enquiry was conducted by Inspector V.K. Joshi. During this preliminary enquiry statement of the applicant herein was also recorded. In the preliminary enquiry report submitted by Inspector Joshi, it has been mentioned that in her statement given before Inspector Joshi, she has admitted that her husband was in possession of CGHS card in which her name as well as names of her sons were included. The aforesaid statement of her is available at page-57 of the DE file of the department. We also notice that in the DE conducted against the applicant besides others the list of witnesses included Inspector V.K. Joshi, who was cited to prove his enquiry report dated 16.11.2009. The enquiry report submitted by Inspector Joshi was one of the listed documents. The statement given by the applicant in the preliminary enquiry was also cited as a listed

document. The applicant has not disputed that all the listed documents were supplied to her. She has also not disputed that Inspector Joshi appeared as a prosecution witness in the enquiry against her and she was given an opportunity to cross examine. In fact, a perusal of the enquiry report reveals that the applicant actually cross examined Inspector Joshi, who appeared as PW-4. The preliminary enquiry report submitted by him was marked as PW-4/A.

9. In view of the aforesaid, we are of the opinion that there is no merit in the arguments advanced by the applicant in her defence. She had made a statement in the preliminary enquiry that she was aware that a CGHS card had been got issued by her husband, which contained her name as well as names of her sons. In fact, she has even admitted that once in a while she used to take that card to the CGHS dispensary for getting medicines. Thus, the applicant cannot now claim that she was not aware that her husband had got issued a CGHS card containing name of her as well as her sons.

10. No other ground was pressed before us.

11. We, therefore, do not find any merit in this O.A. and dismiss the same. No costs.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

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