

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**O.A. No.4569/2014
with
O.A. No.4439/2014
O.A. No.2599/2014
O.A.No.4514/2014
O.A. No.2349/2015
O.A. No.4522/2015**

New Delhi this the 28th day of July, 2016

**HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MR. V.N. GAUR, MEMBER (A)**

(1) OA No.4569/2014

Sohanveer
HC (Ex.) in Delhi Police,
PIS No. 28902415
Aged about 44 years,
S/o Late Sh. Ujala Singh
R/o 11/9, A-1 Block,
Sant Nagar, Burari, Delhi-84. Applicant

(Argued by: Shri Anil Singal, Advocate)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police
PHQ, IP Estate, New Delhi.
ITO, New Delhi.
2. D.C.P. (North-West Distt),
Distt Lines, Ashok Vihar, New Delhi.
3. Insp. Ravinder Singh (E.O)
DE Cell, 8th Floor,
PS Barakhamba, New Delhi. Respondents

(By Advocate: Mr. Vijay Pandita)

(2) OA No.4514/2014

Madan Pal Bhati
Inspector (Ex.) in Delhi Police,
PIS No. 16910119
Aged about 56 years,
S/o Late Sh. Harish Chand
R/o Vill. : Salarpur, Noida, UP. Applicant

(Argued by: Shri Anil Singal, Advocate)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police
PHQ, IP Estate, New Delhi.
2. Joint C.P. (South-Eastern Range),
PHQ, IP Estate, New Delhi.
3. Sh. Pushpender Kumar (E.O.)
D.C.P. (East Distt)
DCP Office, East Distt.
Patpar Ganj, Delhi. ..Respondents

(By Advocate: Mr. N. K. Singh for Ms. Avnish Ahlawat)

(3) OA No.2349/2015

Rajender Singh Naruka
Inspector (Ex.) in Delhi Police,
PIS No. 16940272
Aged about 56 years,
S/o Sh. Nandan Singh
R/o VPO :Baleta,
Distt. Alwar, Rajasthan. ...Applicant

(Argued by: Shri Anil Singal, Advocate)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police
PHQ, IP Estate, New Delhi.
ITO, New Delhi.
2. Joint C.P. (South-Eastern Range),
PHQ, IP Estate, New Delhi.
3. Sh. B. S. Jaiswal (E.O.)
D.C.P. (Traffic)
Sadik Nagar, New Delhi. ..Respondents

(By Advocate: Ms. Sangeeta Tomar)

(4) OA No.2599/2014

Digambar Singh
HC (Ex.) in Delhi Police,
PIS No. 28821518
Aged about 54 years,
S/o Late Sh. Bhim Singh
R/o H-7, PS Sriniwas Puri, New Delhi-65. .. Applicant

(Argued by: Shri Anil Singal, Advocate)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police
PHQ, IP Estate, New Delhi.
2. D.C.P. (South-East Distt),
PS Sarita Vihar, New Delhi.
3. Insp. Daleep Kumar (E.O)
Through D.C.P. (South-East Distt.)
PS Sarita Vihar, New Delhi.Respondents

(By Advocate: Mr. Amit Anand)

(5) OA No.4439/2014

Dharamvir Singh
Constable (Ex.) in Delhi Police,
PIS No. 28902214
Aged about 43 years,
S/o. Sh. Gajraj Singh
R/o. D-109, P-III,
Gautam Budh Nagar,
Greater Noida, UP.Applicant

(Argued by: Shri Anil Singal, Advocate)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police
PHQ, IP Estate, New Delhi.
2. D.C.P. (South-East Distt),
PS Sarita Vihar, New Delhi.
3. D.C.P. (1st Bn. DAP)
New Police Line, Delhi.
4. Insp. Ram Kishan (E.O)
1st Bn. DAP, NPL, Delhi.Respondents

(By Advocate: Mr. N. K. Singh for Mrs. Avnish Ahlawat)

(6) OA No.4522/2015

Rajesh
Constable (Ex.) in Delhi Police,
PIS No. 28091860
Aged about 31 years,

S/o Sh. Ram Kishore
R/o Q-10/141,
Mangol Puri, New Delhi-83.

...Applicant

(Argued by: Shri Anil Singal, Advocate)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police
PHQ, IP Estate, New Delhi.
2. D.C.P/Traffic (HQ),
Toda Pur, New Delhi.
3. Insp. Jai Narain (E.O.)
Delhi Cantt. Circle, New Delhi. ...Respondents

(By Advocate: Mr. Amit Anand)

ORDER (ORAL)

Justice M. S. Sullar, Member (J)

As common questions of law and facts are involved, we propose to dispose of all the above mentioned Original Applications (OAs) by means of this common decision, in order to avoid repetition of facts.

2. The contour of the facts and material, which needs a necessary mention for the limited purpose of deciding the core controversy involved in the instant Original Applications (OAs), expository from the record, is that the applicants were working as police officers/officials in Delhi Police, at the relevant time. On 02.02.2014, a TV channel AAJ TAK, was stated to have conducted a sting operation and prepared a DVD, in which applicants were shown in a very poor light by demanding and accepting bribe money from (under cover agents). Thus, they were stated to have committed the grave misconduct, while performing their official duties. They were dealt with,

departmentally and Departmental Enquiry (DE) was initiated against them under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980 by the competent authority.

3. As a consequence thereof, after following due procedure, separate impugned summary of allegations (Annexure A-2) were accordingly served, with the indicated allegations, to the applicants. They were charge-sheeted for gross misconduct, unbecoming of police officers/officials and violation of the provisions of Central Civil Services (Conduct) Rules, 1964.

4. Aggrieved thereby, the applicants have preferred the instant OAs, challenging the impugned summary of allegations (Annexure A-2) (in all the OAs) on variety of grounds mentioned therein, invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985.

5. The respondents have refuted the claims of the applicants and filed their replies, stoutly denying all the allegations and grounds contained in the main OAs and prayed for their dismissal.

6. At the very outset, it will not be out of place to mention here, that the applicants have challenged the impugned summary of allegations, at this preliminary stage of inquiry, on variety of grounds, but during the course of hearing, learned counsel for applicants has confined his argument only to the limited extent of challenging the illegality to continue the DE proceedings, without supplying the copies of relied upon documents by the respondents.

7. Ex-facie, the argument of learned counsel that since the Disciplinary Authority (DA) has not supplied the copies of all the relied upon documents to the applicants, at the time of delivery of summary of allegations, so continuation of DE is arbitrary and illegal, has considerable force.

8. What cannot possibly be disputed here is that, Rule 16(i) of D.P. Rules, *inter alia*, postulates that a police officer accused of misconduct, shall be required to appear before the Disciplinary Authority, or such Enquiry Officer, as may be appointed by the Disciplinary Authority. The Enquiry Officer shall prepare a statement summarizing the misconduct alleged against the accused officer, in such a manner, as to give full notice to him of the circumstances, in regard to which evidence is to be regarded. Lists of prosecution witnesses, together with brief details of the evidence to be led by them **and the documents to be relied upon for prosecution shall be attached to the summary of misconduct.** A copy of the summary of misconduct and the lists of prosecution witnesses together with, brief details of the evidence to be led by them and the documents to be relied upon for prosecution, will be given to the defaulter free of charge. The contents of the summary and other documents shall be explained to him. He shall be required to submit to the enquiry officer a written report within 7 days indicating whether he admits the allegations and if not, whether he wants to produce defence evidence to refute the allegations against him.

9. Meaning thereby, the import of Rule 16 of D.P. Rules is mandatory in nature, and it has to be strictly followed. It is not a matter of dispute, that the prosecution has not supplied the copy of transcriptions of sting operation and copy of DVDs containing sting operation (listed at S1 .No.3 and 4 of the list of documents) conducted against the applicants by cover agents of AAJ TAK channel. Thus, the relevant authority was legally required to supply the copies of all the relied upon documents to the applicants along with the summary of allegations, failing which, they cannot continue the enquiry against the applicants. In case the DE is allowed to proceed without supplying the copies of indicated relied upon documents, not only that it will inculcate and perpetuate injustice to the applicants, but at the same time, it will amount to violation of statutory rules and principles of natural justice, which is not legally permissible.

10. Faced with the situation, learned counsel for respondents have fairly acknowledged, that copies of transcriptions and DVDs were not supplied and undertake to supply the copies of all the relied upon documents to the applicants, before continuing the DE against the applicants.

11. In the light of the aforesaid reasons, and without commenting further anything on merits, lest it may prejudice the case of either side, during the course of regular Departmental Enquiry, the instant OAs are disposed of with the direction to the relevant authority to supply the copies of all the

relied upon documents, before continuation of DE against the applicants. However, the parties are left to bear their own costs.

12. Needless to mention, the issue of admissibility and acceptability of evidence or otherwise would naturally be decided by the EO during the course of inquiry proceedings.

Let a copy of this order be placed in all the connected files.

(V.N. GAUR)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)
28.07.2016

Rakesh