

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 1516/2013

Reserved on 18.09.2018
Pronounced on 27.09.2018

Hon'ble Mr. K.N.Shrivastava, Member (A)
Hon'ble Mr. S.N.Terdal, Member (J)

Bharam Singh (PIS No.28850288)
Constable of Delhi Police
Aged about 50 years
S/o Sh.Hatti Singh,
R/o Vill: Tajpur, PO/PS: V.V. Nagr.
Distt: Bulandshar (UP). ... Applicant

(By Advocate: Mr. Anil Singal)

VERSUS

1. Govt. of NCT of Delhi
Through Commissioner of Police,
Police Headquarters, I.P. Estate,
New Delhi.
2. Special C.P (Armed Police)
Police Headquarters, I.P. Estate,
New Delhi.
3. DCP (1st Bn.DAP)
NPL, Kingsway Camp,
Delhi. ... Respondents

(By Advocate Mrs. Rashmi Chopra)

ORDER

Hon'ble Mr. S.N. Terdal, Member (J):

We have heard Mr. Anil Singal, counsel for applicant and Mrs. Rashmi Chopra, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In OA, the applicant has prayed for the following reliefs:

"(i) To quash and set aside impugned orders mentioned in Para-1 of the OA and direct the respondents to restore to

the applicant his original service and pay with all consequential benefits including promotion/seniority and arrears of pay.

(ii) To award costs in favour of applicant and pass any order or orders which this Hon'ble Tribunal may deem just & equitable in the facts & circumstances of the case."

3. The relevant facts of the case are that a departmental enquiry was initiated against the applicant on the basis of checking done by DCP/Prov and Logistics at Chilla Check Post PS Mayur Vihar during the intervening night on 18/19.10.07. During the said checking it was found that the applicant was collecting money from one of the vehicles. Thereafter the said DCP called other police officials from the nearby Police Station and the said DCP submitted the report to the Commissioner of Police, Delhi and on the orders of the Commissioner of Police, the applicant was suspended and departmental proceedings were initiated. Thereafter summary of allegation, list of witnesses and list of documents were served on the applicant. The contents of summary of allegation are as under:

"It is alleged against HC Om Parkash No. 153/E (PIS No. 28822333) and Ct. Bharam Singh No. 1847/E (PIS No. 28850288) that during the night intervening 18/19.10.07 when checked by Sh.Prem Nath, DCP/Prov & Logistics at Chilla Check Post PS Mayur Vihar, Delhi both carriageway from Noida to Delhi a number of vehicles were in queue and moving slowly, one Eicher Tempo loaded with goods was found stopped by a person wearing Khaki Pant, black shoe and black leather jacket and he was negotiating something with the driver. The night GO without disturbing them, took a snap through digital camera and then the person was asked to disclose his identity the person was shocked and said nothing, when he asked to remove his jacket it was found that the person was wearing the police uniform but there was no shoulder badge on the uniform except a nameplate indicating Ct.Bharam Singh. Thereafter, enquiry was made from the person who was standing with Ct.Bharam Singh. He disclosed his name as Raju, driver of vehicle No. HR-38L-5364 and further disclosed that the said person asked him for entry money of Rs.50/- However, he gave him a note of Rs.20/- but he was demanding more money. His trouser pocket was checked

in which a note of Rs.500/- and Rs.20/- were found. Besides this he was having a purse in the rear pocket of his trouser, which was claimed to be his own money. ACP Ganga Sahai of East Distt. alongwith checking officer of Sub-Division Kalyan Puri, SHO/Kalyan Puri Inspr. Rajeshwar Kumar and PS Mayur Vihar checking officer ASI Om Parkash Mobile-31 were called by night GO at the spot. The driver Raju gave a written statement which was countersigned by the helper Raj Kumar including staff from Toll Tex Booth. This statement alongwith the note was handed over to ASI Om Parkash of PS Mayur Vihar. Crt. Bharam Singh was deployed on a motorcycle patrol duty from police station Mayur Vihar but HC Om Parkash No. 153/E ran away from there. The motor cycle was found parked nearby at a lonely location behind the sight of motorist. On this incident the report was produced before worthy CP Delhi by the night GO Sh Prem Nath and worthy CP Delhi has passed remarks to suspend both HC Om Parkash No. 153/E and Ct. Bharam Singh No. 1847/E. On this DCP/East Distt. suspend both of them vide order No.15966-86/HAP/Edt 19.11.07 w.e.f. 19.11.07.

The above act on the part of HC Om Parkash No. 153/E and Ct. Bharam Singh No. 1847/E amounts to gross misconduct, negligence, carelessness and shameful. Being a member of disciplinary force which render liable to be dealt with departmentally under the provision of Delhi Police (Punishment and Appeal) Rules-1980."

(Emphasis supplied)

Thereafter following the procedural rules, departmental enquiry was held and after examining 5PWs including the said DCP and 2DWs, the Inquiry Officer discussing the evidence of all the witnesses held that the charge against the applicant was proved. The disciplinary authority on the basis of entire evidence collected during the departmental enquiry and taking into consideration all the points raised by the applicant in his representation, agreeing with the inquiry report imposed the penalty of dismissal from service vide his order dated 21.10.2011. The appellate authority once again after carefully going through the appeal and hearing the applicant in orderly room on 12.03.2013 held that there are several procedural lapses and yet he impliedly upheld the findings of the inquiry officer on the basis of the deposition of night duty DCP (PW-4) who had taken the photo and who

had searched the appellant and recovered Rs.500/- and Rs.20/- with cell phone and toll tax receipt from the pocket of the appellant. The said appellate authority has not held that there is no evidence at all. Neither he has set aside the findings of the inquiry officer nor has he set aside the comments and consideration of the disciplinary authority. The appellate authority further held that the applicant cannot be absolved of the misconduct and he reduced the penalty of dismissal from service to that of forfeiture of 8 years approved service permanently entailing proportionate reduction in his pay.

4. The counsel for the applicant vehemently submitted that there is violation of rule 15(2) of the Delhi Police (Punishment and Appeal) Rules, 1980. In support of his submission he relied upon the judgment of Hon'ble High Court of Delhi in the case of **Dy.Commissioner of Police Vs Hakim Khan** (W.P(C) 10281/2009). However, in view of the fact that the applicant was suspended and the departmental proceedings are initiated on the direction of the Commissioner of Police, as such there was no need to seek the permission of the Additional Commissioner of Police in this case. As such, we do not think that there is violation of provisions of the said Rule 15(2) of the Delhi Police (Punishment and Appeal) Rules, 1980, and the law laid down in the above said case is not applicable in this case.

5. The counsel for the applicant submitted that there is violation of rule 15(3) and 16(3) of the Delhi Police (Punishment and Appeal) Rules, 1980. However, from the perusal of the enquiry report, it is clear that the inquiry officer based his findings and conclusions on the deposition of DCP who had clearly deposed as PW4, about the

involvement of the applicant in the alleged misconduct. As such in view of the peculiar facts of the case, the law laid down by Hon'ble courts referred to by the counsel for applicant in the following cases are not applicable to the present case.

- "(1). **Govt. of NCT of Delhi & Ors Vs HC Rohtas Singh**
(W.P (C) No.152/2010)
- (2). **Kuldeep Singh Vs. Commissioner of Police and Others** (1999) (2)SCC 10)
- (3) **Dhujender Pal Singh Vs. Govt. Of NCT of Delhi and Others** (2002(100) DLT 204)
- (4) **Union of India and Ors. Vs J.P.Singh**
(2007 (137) DLT 276)
- (5) **Union of India and Ors Vs. Mohd Ibrahim**
(2004 (10) SCC 87)

6. The counsel for the applicant has submitted that some material witnesses were not examined. In support of his submissions the counsel for the applicant relied on the law laid down in the following cases:

- "(1) **Hardwari Lal Vs. State of UP & Ors**
(1999(8) JT 418)
- (2) **M.L.Jindal Vs. Delhi Vidyut Board & Ors**
(2006 (4) SCT 842 (Del.)
- (3) **Ms. Bareilly Electricity Supply Co.Ltd Vs The Workmen and Others**
(1971 (2) SCC 617)."

We have perused the inquiry report. The inquiry officer has examined as many as 5PWs and 2 DWs and from the assessment of the deposition of those witnesses, he has come to the conclusion that the summary of allegations against the applicant are proved. Hence, the contention of the learned counsel for the applicant that some other witnesses should have been examined is not sustainable.

7. The departmental enquiries are not criminal trials. The standard of proof of proving the entire chain of events beyond reasonable doubt cannot be applied in the assessment of evidence in departmental proceedings. From the reading of the assessment of the evidence by the appellate authority it seems as though the appellate authority has applied the standard required in criminal trials. However, since the appellate authority has not set aside the entire findings of the inquiry officer and assessment of the disciplinary authority, we are of the view that the penalty order passed by the appellate authority does not require to be interfered with.

8. The counsel for the applicant has not pointed out violation of any other procedural rules or principles of natural justice in the departmental proceedings. In view of the conspectus facts and circumstances of the case, the OA is dismissed. No order as to costs.

(S.N.Terdal)
Member (J)

(K.N.Shrivastava)
Member (A)

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