

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.3652 of 2014

This the 20th day of November, 2018

Hon'ble Ms. Nita Chowdhury, Member (A)

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

1. Bhagwat Prasad
Constable in Delhi Police,
PIS No.28941784
Aged about 41 years
S/o Late Sh. Prem Singh
R/o A-30, Kondli Colony,
Delhi-96.
2. Yogesh Kumar,
Constable in Delhi Police,
PIS NO.28890715
Aged about 44 years
S/o Late Sh. Ramesh Singh,
R/o VPO : Distt : Meerut
PS : Bhawanpur, UP.

....Applicants

(By Advocate : Shri Anil Singal)

VERSUS

1. Govt. of NCT of Delhi
Through Commissioner of Police,
PHQ, IP Estate, New Delhi.
2. Joint C.P. (Operation),
PHQ, IP Estate, New Delhi.
3. D.C.P./Traffic (SR)
PHQ, IP Estate, New Delhi.

.....Respondents

(By Advocate : Ms. Neetu Mishra for Mrs. Rashmi Chopra)

ORDER (Oral)

Ms. Nita Chowdhury, Member (A):

MA No.3141/2014

This MA has been filed by the applicants under Rule 4(5) of CAT (Procedure) Rules, 1987 seeking joining together

in a single OA. For the reasons stated in the MA, the same is allowed. The applicants are permitted to file a join together in a single Original Application.

OA 3652/2014

By filing this OA the applicants are seeking the following reliefs:-

- “1. To quash and set aside impugned Order of punishment dt. 15.9.2005, Order dt. 13.3.2014 & Order dt. 15.7.2014.
2. To direct the respondents to restore to the applicants their original service with all consequential benefits including seniority/promotion, arrears of pay and the period of suspension being treated as spent on duty for all intents and purposes.
2. To award costs in favor of the applicants and
3. To pass any order or orders, which this Hon’ble Tribunal may deem just & equitable in the facts & circumstances of the case.”

2. The applicants, who are working as Constable in Delhi Police, were tried in Criminal Case (Fir No.456/04) in the Court of Ms. Colette Rashmi Kujru: Matropolitan Magistrate (Mahila Court): Tis Hazari Court, New Delhi for offence under Section 354/509/34 IPC. The trial ended in acquittal of the applicants vide judgment dated 24.07.2013 of the Ms. Colette Rashmi Kujru: Matropolitan Magistrate (Annexue A-4).

3. During the pendency of the Criminal Case, the applicants were also proceeded against departmentally, which

culminated in the Disciplinary Authority passing Annexure - A-3 order dated 15.7.2014 imposing the penalty of forfeiture of one year approved service. Their statutory appeal has already been dismissed by the departmental appellate authority vide Annexure-A-2 order dated 13.3.2014.

4. Following their acquittal by the trial court, the applicant submitted a joint representation to the respondents requesting him to revisit the punishment inflicted on him, but their joint representation was rejected by the Disciplinary Authority vide order dated 15.7.2014 by passing a non-speaking and unreasoned order. Aggrieved by the action of the respondents, the applicants have approached the Tribunal in the instant OA praying for the reliefs as quoted above.

5. Shri Anil Singal, learned counsel for the applicants submitted that in accordance with Rule 12 of Delhi Police (Punishment & Appeal) Rules 1980, the respondents are legally obliged to revisit the penalty order passed in the departmental proceedings after judicial acquittal of the applicant. The said Rule is reproduced below:

“12. Action following judicial acquittal.- When a police officer has been tried and acquitted by a criminal court, he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, whether actually led or not unless:-

(a) the criminal charge has failed on technical grounds, or

(b) in the opinion of the court, or on the Deputy Commissioner of Police the prosecution witnesses have been won over; or

(c) the court has held in its judgment that an offence was actually committed and that suspicion rests upon the police officer concerned; or

(d) the evidence cited in the criminal case disclose facts unconnected with the charge before the court which justify departmental proceedings on a different charge; or

(e) additional evidence for departmental proceedings is available.”

6. Learned counsel for the applicants further submitted that the Full Bench of this Tribunal in the case of **Sukhdev Singh & another Vs. Govt. of NCT of Delhi & others** (OA No.2816/2008) judgment order dated 18.02.2011, it has been held as under:-

“In view of the discussion made above, we hold that there is no bar, express or implied, in the Rules of 1980 for holding simultaneous criminal and departmental proceedings. However, in case departmental proceedings may culminate into an order of punishment earlier in point of time than that of the verdict in criminal case, and the acquittal is such that departmental proceedings cannot be held for the reasons as mentioned in Rule 12, the order of punishment shall be re-visited. The judicial verdict would have precedence over decision in departmental proceedings and the subordinate rank would be restored to his status with consequential reliefs”.

7. He, thus, argued that the matter may be remitted to the Disciplinary Authority to revisit the penalty order in accordance with Rule 12 of Delhi Police (Punishment & Appeal) Rules 1980 and in terms of the ratio of **Sukhdev Singh** (supra). He further submitted although the

respondents have passed order dated 13.3.2014 having regard to the Rule 12 of the said Rules but the concerned authority has not revisited the said punishment as they have only stated that the applicant have already awarded the punishment of forfeiture of one year approved service permanently for a period of one year vide order dated 15.9.2005, which shows that they have not revisited the said penalty order.

8. We have perused the pleadings of the rival parties. We find that the penalty order passed against the applicants is required to be revisited by the Disciplinary Authority as per the judgment in ***Sukhdev Singh*** (supra). Accordingly, we set aside the Annexures-A-1, A-2 & A-3 orders and direct the competent Disciplinary Authority to revisit the matter under Rule 12 of Delhi Police (Punishment & Appeal) Rules 1980 in true letter and spirit and pass an appropriate order. While doing so, the Disciplinary Authority shall keep in view the judgment of Full Bench of the Tribunal in ***Sukhdev Singh*** (supra). This shall be done within a period of three months from the date of receipt of a copy of this order.

9. The OA is disposed of accordingly. No costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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