

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

**O.A. No.3852/2013
With M.A. No. 2927/2013**

**Reserved On:12.07.2018
Pronounced on:03.08.2018**

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Shri Bhanu Pratap Singh
Age 53 years
S/o Late Shri Uday Singh
R/o Village Fakhpur,
P.S. Khekhra, Distt. Baghpat (UP). ...Applicant

(By Advocate: Shri S.K. Gupta)

Versus

Delhi Police through

1. Commissioner of Police,
Police Headquarter,
MSO Building,
I.P. Estate,
New Delhi.
2. Joint Commissioner of Police,
Southern Range,
New Delhi.
3. Add. Dy. Commissioner of Police,
District West,
Rajouri Garden,
New Delhi.
4. Inspector S.K. Rana
ATO/Inquiry Officer,
C/o Addl. Dy. Commissioner of Police,
District West,
Rajouri Garden,
New Delhi.

(By Advocate: Sh. Vijay Pandita)

ORDER**By Hon'ble Mr. V. Ajay Kumar, Member (A)**

The applicant, a Constable in the respondent-Delhi Police was served with a summary of allegations, which reads as under:-

“It is alleged against Constable Bhanu Pratap No.2161/W (now 2306/W) PIS No.28822744) that while posted at PS Janak Puri a case Vide No.292/02, u/s 323/504/506/308 IPC PS Bhagpat (UP) was registered on the complaint of Shri Ram Dhan Singh S/o Shri Bhanwar Singh, R/o Fakhar Pur, PS Khakra Distt. Bhagpat (UP). In his complaint he has alleged that Billu @ Balraj beat his cousin Kripal Singh at Chandi Nagar Road Bhagpat on 05.07.2002 and also threatened him with dire consequences. During investigation of the above case Constable Bhanu Partap No.2306/W was arrested in the above said case on 02.08.2002 and sent to jail. He was placed under suspension vide order No.600-630/P-II(W) dated 27.01.2002 w.e.f. 03.08.2002.

The above act on the part of Constable Bhanu Pratap No.2306/W amounts to gross misconduct, negligence and dereliction in the discharge of his official duty and unbecoming of a police officer which renders you liable to be dealt with departmentally under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980”.

2. On denial of the above allegations, the respondents conducted departmental enquiry wherein the applicant participated and vide the Annexure A-1 findings, the Inquiry Officer held the charge levelled against the applicant as fully proved. After considering the representation made by the applicant against the said findings, the Disciplinary Authority vide Annexure A-2 order dated 01.08.2011, imposed the punishment of dismissal from service on the applicant. However, the Appellate Authority vide Annexure A-2 order dated 15.11.2011, reduced the said punishment from dismissal to removal from service. Questioning the said penalty and appellate

order, the applicant filed the instant OA, along with MA No.2927/2013 seeking condonation of delay in filing the OA.

3. Heard Shri S.K. Gupta, the learned counsel for the applicant and Shri Vijay Pandita, the learned counsel for the respondents and perused the pleadings.

4A. In the circumstances and for the reasons mentioned therein and in the interest of justice, the delay in filing the OA is condoned and accordingly, the MA is allowed.

4. Shri S.K. Gupta, learned counsel appearing for the applicant raised various grounds in support of the OA averments.

5. On the other hand, Shri Vijay Pandita, learned counsel appearing for the respondents would submit that the charge levelled against the applicant is relating to his involvement, arrest and conviction in a criminal case and that the competent criminal court after due trial, convicted the applicant vide its judgment dated 19.10.2004 in case FIR No.292/2002 and sentenced the applicant with rigorous imprisonment for one year and fine of Rs.3,000/- under Sections 323/34 of IPC and also sentenced the applicant with rigorous imprisonment for one year and fine of Rs.3,000/- under Section 506 of IPC. It is further submitted that the said conviction is still subsisting as the criminal appeal filed by the applicant is still pending. Accordingly, the learned counsel submits

that once the charge against the applicant in the departmental enquiry is relating to the involvement of the applicant in a criminal case, which was duly held proved by the Inquiry Officer, and that the applicant was also convicted for the above referred criminal offences by a competent criminal court, and that the said conviction is still subsisting, the OA is liable to be dismissed on the said ground itself.

6. We find force in the submission made by the learned counsel for the respondents. All the grounds raised by the applicant relate to the very same charge of his involvement in a criminal case and the said criminal case was already held against him by way of his conviction and imprisonment and the same position is still subsisting as on today.

7. In view of the conviction of the applicant for the offences under Sections 323/34/506 of IPC, we reject the contention of the applicant's counsel with regard to the disproportionate punishment.

8. In the circumstances and for the aforesaid reasons, we do not find any merit in the OA and according the same is dismissed. No costs.

(A.K. BISHNOI)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

RKS