

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O. A. No.60/869/2016 AND

Date of decision: 23.08.2018

O.A. No.60/1017/2016

...

CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).

HON'BLE MRS. AJANTA DAYALAN, MEMBER (A).

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O. A. No.60/869/2016

Shamsher Singh, S/o Man Singh, aged 35 years, Ex. Constable
No.1711/CP, R/o VPO Nizampur, Delhi-110081. Group C.

... APPLICANT

VERSUS

1. Union of India through the Secretary to Government of India,
Ministry of Home Affairs, North Block, New Delhi.
2. Home Secretary, Chandigarh Administration, Chandigarh, U.T.
Secretariat, Sector-9, Chandigarh.
3. Inspector General of Police, Union Territory, Chandigarh, U.T. Police
Head Quarter, Sector-9, Chandigarh.
4. Deputy Inspector General of Police, U.T. Police Head Quarter, Sector-
9, Chandigarh.
5. Senior Superintendent of Police, U.T. Police Head Quarter, Sector-9,
Chandigarh.

... RESPONDENTS

PRESENT: Sh. Rajesh Lamba, counsel for the applicant.
 Sh. Ram Lal Gupta, counsel for respondent no.1.
 Sh. Arvind Moudgil, counsel for respondents no.2 to 5.

O.A. No.60/1017/2016

Amardeep Singh, S/o satyawan, aged 37, Ex-Constable No.935/CP, R/o H.
 No.409, NPL, Police Line, Sector 26, Chandigarh. Group C.

... APPLICANT**VERSUS**

1. Union of India through the Secretary to Government of India, Ministry of Home Affairs, North Block, New Delhi.
2. Home Secretary, Chandigarh Administration, Chandigarh, U.T. Secretariat, Sector-9, Chandigarh.
3. Inspector General of Police, Union Territory, Chandigarh, U.T. Police Head Quarter, Sector-9, Chandigarh.
4. Deputy Inspector General of Police, U.T. Police Head Quarter, Sector-9, Chandigarh.
5. Senior Superintendent of Police, U.T. Police Head Quarter, Sector-9, Chandigarh.

... RESPONDENTS

PRESENT: Sh. Rajesh Lamba, counsel for the applicant.
 Sh. Arvind Moudgil, counsel for respondent no.1.
 Sh. Mukesh Kaushik, counsel for respondents no.2 to 5.

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J):-

1. This order shall dispose of above two captioned O.As as points involved in these cases is common in nature.
2. For convenience, facts are being taken from the case of Shamsheer Singh vs. Union of India & Ors.
3. Present O.A. has been filed by the applicant assailing the charge-sheet dated 03.08.2011 (Annexure A-1), inquiry report dated 27.12.2011 (Annexure A-2), show-cause notice dated 01.02.2012 (Annexure A-3), order of Disciplinary Authority dated 03.09.2014 (Annexure A-4), whereby penalty of dismissal, with immediate effect, has been inflicted upon him, order in appeal dated 15.12.2014 (Annexure A-5), whereby his appeal dated 30.09.2014 has been rejected and order in revision dated 31.03.2015 (Annexure A-6), whereby revision petition has been rejected. He has also challenged order dated 05.10.2015 (Annexure A-7), whereby his second revision appeal has also been rejected and lastly order dated 15.06.2016 (Annexure A-8), vide which his mercy petition has been rejected.
4. After exchange of pleadings, matter came up for hearing today.
5. Facts are largely not in dispute.
6. Applicant commenced his service career as Constable in Chandigarh Police on 15.03.2005. An FIR No.31 dated 08.02.2008 under Sections 420, 120-B of IPC and Section 13(1)(d) (i) of Prevention of Corruption Act was registered against him, along with two persons for alleged leakage of written question paper for the post of ASI in Chandigarh Police. Simultaneously, disciplinary proceedings were also initiated

against him and he was charge-sheeted on 03.08.2011. Vide judgment dated 02.04.2013 applicant was acquitted by giving benefit of doubt. In departmental proceedings, applicant was subjected to inquiry, where during inquiry, he specifically raised a plea that he has not been provided opportunity to cross examine Sh. Shadi Lal and Sh. Satbir Singh. Though his objection was registered, as is apparent from page 65 of the O.A., under the heading of 'Preliminary Submissions', but was not decided. Ultimately, departmental inquiry was concluded against him. Based upon inquiry report, show-cause notice was issued and ultimately order of dismissal was passed. It is the case of the applicant that when he filed appeal raising a specific plea of not providing opportunity to cross examine material witnesses, the respondents did not bother to consider and decide such contention and ultimately upheld order of disciplinary authority in appeal and revision petition filed by him. Against these orders applicant is before this Court.

7. The applicants have raised a solitary argument, for invalidation of impugned orders, and also for vitiating inquiry proceedings, that while inflicted punishment, respondents did not comply with the principles of natural justice and did not adhere to procedure laid down under rules for conducting inquiry proceedings as they have not provided applicants opportunity to cross examine key-witnesses which could change ultimate decision, in the proceedings.
8. Learned counsel for the respondents, though resisted the claim, but he is not in position to rebut argument raised by learned counsel for the applicants with regard to not providing of opportunity of cross-examination of material witnesses, because order in appeal also does

not deal with the objection raised by the applicants. Since there is a mechanism for providing cross-examination of the witnesses in consonance of the principles of natural justice, therefore, we deem it appropriate to quash the impugned orders passed by disciplinary authority, order in appeal and revision etc. (Annexures A-4 to A-8). At the same time, the case is remitted back to the disciplinary authority to re-examine the entire matter and pass fresh order in the matter in accordance with rules, on the indicated pleas.

9. The O.A. stands disposed of in the above terms. No costs.

(AJANTA DAYALAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 23.08.2018.
Place: Chandigarh.

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