

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

Pronounced on : 20.11.2018

Reserved on : 30.10.2018

OA No. 060/00938/2016

MA No. 060/00938/2016

**CORAM: HON'BLE MR.SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MRS. P. GOPINATH, MEMBER(A)**

Pardeep Kumar S/o Sh. Ram Phal, aged 26 years, working as Constable, U.T. Police, Chandigarh R/o House No. 1692, Sector 15, Panchkula.

.....Applicant

BY ADVOCATE: **Rohit Seth**

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, UT Secretariat, Sector 9, Chandigarh.
3. Inspector General of Police, Union Territory, Chandigarh U.T. Police Headquarters, Sector 9, Chandigarh.
4. Deputy Inspector General of Police, Union Territory, UT Police Headquarters, Sector 9, Chandigarh.
5. Senior Superintendent of Police, U.T. Chandigarh, U.T. Police Headquarters, Sector 9, Chandigarh.

.....Respondents

BY ADVOCATE: **Sh. Arvind Moudgil**

ORDER

MRS. P. GOPINATH, MEMBER(A):-

1. While on patrolling duty on the night of 25/26.07.2012, the applicant, a Constable, is alleged to have demanded a sum of Rs. 300 from a couple in a park in Sector 20 of UT Chandigarh. A summary of allegations was issued by respondents on 24.09.2012. The charge memo was served upon the applicant on 21.01.2013.

2. When the complainants in the matter became aware that the applicant had been proceeded against, they requested the respondents to delete his name from the case. The complainants also submitted affidavit dated 26.10.2012 that the applicant had nothing to do in the matter as the complaint was made against Constable Rajesh Kumar who was on duty along with the applicant and who has misbehaved and taken money from them. The inquiry findings in the matter were submitted on 25.03.2013. The disciplinary authority issued Show Cause Notice on 02.07.2013 to the applicant agreeing with the findings of the Inquiry Officer.

3. The applicant while submitting reply to the show cause notice denied the charges. The disciplinary authority imposed a punishment of stoppage of 15 annual increments with permanent effect. The applicant submitted an appeal under Rule 16.29 of Punjab Police Rules (PPR). The appeal was rejected while modifying the punishment to stoppage of ten annual increments with permanent effect. The applicant submitted a revision petition which was rejected. Applicant submitted a mercy petition which was also rejected.

4. The prayer of the applicant is for quashing Annexure A-1, charge sheet, Annexure A-2 Inquiry Report, Annexure A-3, Show Cause notice, Annexure A-4 Punishment order, Annexure A-5 Appellate order, Annexure A-6 Revision order and Annexure A-7, Reply to mercy petition and to treat the applicant as if no punishment order was passed.

5. The respondents in the reply statement submitted that the applicant along with Constable Rajesh Kumar and one Dalel Singh were

deputed for night patrolling in Sector 20 area. At 02.00 am, a message was received in Police Station 19 from Police Station 17 regarding demand of money. ASI Balram Singh reached Aroma Light Point and found ASI Gurdeep Singh E.O. Police Station 17 along with complainant Divesh Parkash Rana present at the spot. The complaint was that while D.P. Rana was going to drop his friend Ms. Kavita at her PG accommodation at Sector 20, Chandigarh, they were stopped and harassed by the patrolling party at Sector 20. D.P. Rana made a complaint in writing and informed the Police Control Room. A DDR No. 75 dated 26.07.2012 was lodged in Police Station 19. During the course of inquiry, besides the complaint of harassment, they also alleged that the patrolling party took a sum of Rs. 300 as illegal gratification.

6. A regular departmental inquiry under PPR 16.24. was ordered against the applicant and Constable Rajesh Kumar. The Inquiry Officer held the applicant and Constable Rajesh Kumar guilty of the charges. Agreeing with the findings of the Inquiry Officer, SSP Chandigarh served Show Cause Notice proposing punishment of dismissal from service. The applicant submitted reply to the Show Cause Notice. SSP (Security) being the disciplinary authority of the applicant, imposed a punishment of stoppage of 15 annual increments with permanent effect. Applicant filed an appeal before the DIG, and as a consequence the punishment was reduced to stoppage of 10 annual increments with permanent effect. The revisionary authority also upheld the punishment of the appellate authority.

7. The applicant submitted in the cross-examination that he has not taken a sum of Rs. 300 from D. P. Rana and he substantiated it with

the following parts of the cross examination documents placed at Annexure

PW-10:-

“.....No. Divesh Rana told me that the bald person who seems to old age (buda) and speaking Haryanvi took money from him and he can identify on seeing and Divesh Rana identified Const. Rajesh Kumar 3565/CP.

.....No. he did not tell the name of C Pardeep Kumar and the complainant was saying that C Pardeep Kumar did not misbehave with him.

.....To saari baat mere ko ASI Balram ne batayi aur phir maine khud Mr. Divesh Parkash Rana ko bulaya jisne mjhe bataya ki jo ganje sir wale police wale ne mere se Rs. 300/- liye the wo vapis kar diye the aur usne kaha ki mujhse maafi maangne ka koi fayda nahi, meri friend Kavita ko mein Shaam ko saath le kar aunga uske saamne maafi maangna, ASI Balram ne statement etc. Likhe aur use farig kiya.”

Thus, the applicant submits that it was not him, but Constable Rajesh Kumar who took money from Daveshe Rana. And applicant has not produced a copy of complaint filed by D.P. Rana to support the contention that D.P. Rana had not filed a complaint against the applicant.

8. Heard the counsel for applicant and respondents and perused the written submissions made.

9. The Inquiry Officer rests its evidence on misbehaviour with the couple who registered a complaint and illegal gratification of Rs. 300 on the patrolling party comprising Constable Pardeep Kumar and Constable Rajesh Kumar who were doing patrolling duty together in a private Swift Car No. CH01-AD-3030. The patrolling party had taken Rs.300/- from D.P. Rana, and returned it back when a complaint was made to Police Control Room (PCR). After perusing the inquiry file and the relevant record and hearing the applicant in person, the disciplinary authority agreed with the findings of the Inquiry Officer and imposed the penalty, which was further

reduced by the appellate authority despite recording that the appellant who is the applicant in this OA, has been afforded ample and substantial opportunity to present his case in defence. Thus, the appellate authority is also convinced about the conduct of the disciplinary proceedings against the applicant and there is no scope for doubt on this account. The appellate authority had also recorded that no procedural irregularities have been found in the conduct of the inquiry and the findings and punishment orders are supported and substantiated by the evidence on record. The appellate authority had also recorded that there has been full compliance with the principles of natural justice, equity and fair play in the departmental proceedings. It is also recorded that there was also no infraction of rules while conducting the departmental inquiry. However, taking a lenient view, he reduced the punishment from stoppage of 15 annual increments to stoppage of ten annual increments with permanent effect.

10. The applicant in his reply to the charge also submits that on interception by the police party, Constable Rajesh Kumar asked for the identity of the boy and girl and made demand of Rs. 300. The fact is that the applicant and the Constable Rajesh Kumar were doing duty together and hence applicant becomes a co-accused in the complaint made by D.P. Rana that illegal gratification was demanded of him.

11. The applicant's argument that he knew of the demand made for money and had no alternative except to abide by the order of his senior, does not absolve him of being a co-participant in the harassment and illegal gratification demand from a member of the public. Integrity is a

quality which is required to be exercised by a public servant at all times, even if applicant had only one year of service.

12. Further, the argument of the applicant that this is a case of no evidence is also not supported by the findings of the Inquiry Officer. An ordinary or prudent man would come to conclusion that when put on duty as a team, the team is responsible for the consequences of the incident or the complaint raised by a public member on any action by the team. The evidence on record would show that the applicant was working as a team with Constable Rajesh Kumar and in the event of illegal gratification or harassment, he would be equally responsible for the action of the team. Applicant's attempt to disassociate himself from the event when he was a member of the patrolling party appears to be a poor defence, not substantiated in the inquiry proceedings.

13. Whereas it is for the Inquiry Officer and the disciplinary authority to assess the evidence in a disciplinary proceeding, the Tribunal is not looking into or attempting to appreciate evidence in this case. After a complaint was made to the PCR by D.P. Rana, there was a formal inquiry in which evidence was recorded and conclusion of guilt arrived at. In a recent decision by the jurisdictional High Court in case of **Union of India & Ors. Vs. Raghubir Singh and another, CWP No. 1154/2014 decided on 06.05.2014**, it has been held that the court/Tribunal cannot interfere with the quantum of punishment as the same is under the domain of the Disciplinary Authority to inflict the punishment and court cannot substitute their decision. A perusal of the allegations proved and the penalty imposed upon the applicant will show that the same is not

excessive and it cannot be said that it pricks the conscience of a prudent man, considering the fact that a protector of law chose to violate the law himself by demanding illegal gratification.

14. For the foregoing discussion and observations, this OA, being devoid of merit, is dismissed. There shall be no order as to costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated:
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