

**Central Administrative Tribunal
Principal Bench**

OA No.1674/2013

New Delhi, this the 20th day of December, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Ram Kishore Tyagi,
PIS No.28850674,
Ex. Constable of Delhi Police,
Aged about 48 years,
S/o Shri Dharambir Singh,
R/o 517/D, Gali No.6,
Vijay Park, Maujpur,
Delhi-53.

...Applicant

(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. (Prov & Logistics),
PHQ, I.P. Estate, New Delhi.
3. DCP (Prov & Logistics),
Through Commissioner of Police,
PHQ, IP Estate, New Delhi.
4. Sh. R.K. Jha,
Then DCP (Prov & Logistics),
Through Commissioner of Police,
PHQ, IP Estate, New Delhi.
5. Ms. Shashi Bala (Enquiry Officer),
Then W/Inspector in DE Cell,
Through Commissioner of Police,
PHQ, IP Estate, New Delhi.

...Respondents

(By Advocate : Ms. Rashmi Chopra)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant was appointed as a Constable in the Delhi Police in 1985. A charge memo was issued to him on 15.06.2010, alleging that he submitted false medical bills worth several lakhs in the name of his father. It is also mentioned that an FIR was registered in that behalf. The applicant submitted his explanation and that not satisfied with the same, the disciplinary authority appointed Inquiry Officer. A report was submitted by Inquiry Officer on 09.04.2012, holding that the charges against the applicant as proved. A copy of the report was made available to the applicant and he was permitted to make a representation. On a consideration of the report of the Inquiry Officer and the explanation submitted by the applicant, the disciplinary authority passed an order dated 17.08.2012, imposing the punishment of dismissal from service. The applicant preferred an appeal. The same was rejected through order dated 04.03.2013. Hence, this O.A.

2. The applicant contends that the disciplinary authority has taken into account, certain allegations

which are not part of the charges and the decision to impose the punishment was taken, in violation of principles of natural justice. It is also stated that though a specific request was made to summon the defence witnesses, that was not acceded to and his request for change of the Inquiry Officer was also turned down. The applicant contends that serious procedural lapses have taken place in the matter and the order of punishment deserves to be set aside.

3. The respondents filed counter affidavit opposing the OA. It is stated that charges are serious enough not only as regards the submission of fictitious bills but also about filing of an FIR against him. It is stated that every step in the inquiry was taken, in accordance with the prescribed procedure and that the applicant was also given ample opportunity to examine the witnesses. It is stated that the list of witnesses furnished by the applicant was fictitious and every effort was made by him to drag the proceedings.

4. We heard Shri Anil Singal, learned counsel for applicant and Ms. Rashmi Chopra, learned counsel for respondents.

5. The summary of allegations against the applicant reads as under :-

“SUMMARY OF ALLEGATION

It is alleged against Const. Ram Kishor Tyagi No.148/L (PIS No.28850674) (Under Suspension) that a criminal Case FIR No.435/08 U/S 420, 468, 471, 466 IPC P.S. Welcome, Delhi was registered against him on the allegation that he while posted in North-East Distt. had submitted false medical bills for Rs.225709/-, 331237/-, 487580/- and Rs.157648/-. He was arrested in the case on 3/12/2008.

The above act on the part of Const. Ram Kishor Tyagi No.148/L amounts to gross misconduct and indulgence in unlawful activities by taking advantage of his post which renders him to be dealt with departmentally under Provision of Delhi Police (Punishment & Appeal) Rules, 1980.”

6. As prescribed under the relevant Service Rules of the Delhi Police, the Inquiry Officer examined the witnesses and then framed the charges as under :-

“I, Shashi Bala, Inspr. DE Cell, Delhi (Enquiry Officer) charge you Ct. Ram Kishor Tyagi No.148/L (PIS No.28850674) that while posted at PS Welcome, North-East Distt., Delhi. You submitted forged medical bills in r/s your father Sh. Dharam Pal Singh amounting to Rs.225709/-, 331237/-, 487580 and Rs.157648/-.”

7. From this, it is evident that the applicant has submitted fictitious bills pertaining to the years 2005-

2006, 2006-2007, 2007-2008 and 2008-2009, which sum up to Rs.2,25,709, Rs.3,31,237/-, Rs.4,87,580/- and Rs.1,57,648/-. Another limb of the allegation was that an FIR No.435/08 under Section 420, 468, 471 and 466 was filed in the PS Welcome, Delhi.

8. In the inquiry, as many as five witnesses were examined by the Department and certain documents which are mostly in the form of bills were submitted. On behalf of the applicant, no witness was examined. Though he made an application to summon as many as nine witnesses, the Inquiry Officer expressed her inability to accede to the request. Almost all the witnesses were private individuals and in fact, the last one named, is not an individual but a hospital. In the proceedings of this nature, it is for the charged officer to procure the presence of the witnesses, whom he proposes to examine. The question of Inquiry Officer issuing summons to them does not arise.

9. In his report, the Inquiry Officer categorically held that all the allegations made against the applicant are proved. Specific reference was made to the various amounts mentioned in the charge sheet and in addition to that, reference was made to a sum of Rs.64,014/-.

The disciplinary authority took note of the report as well as explanation of the applicant and imposed the punishment.

10. In the penultimate paragraph, the disciplinary authority referred to sum of Rs.64,014/- and Rs.11,18,179/-. It is urged that these amounts are not covered by the charge memorandum and they constitute external factors or extraneous material. If the said amounts were not covered by the charge sheet, the proceedings can certainly be treated as vitiated. For that reason, we have undertaken detailed examination of the record. An amount of Rs.64,014/- was mentioned by the Inquiry Officer in her report itself, after examining the various bills. So far as the amount of Rs.1,18,179/- is concerned, the Disciplinary Authority himself has undertaken an extensive analysis of this plea of the applicant as to the inaccuracy of the findings of the Inquiry Officer. While analysing facts and figures, referable to the bills presented in the year 2008-2009, the Disciplinary Authority noted that the bills are marked before Inquiry Officer as PW-5/B. On a scrutiny of individual bills, he found that eight bills were genuine and accordingly, he deleted the

corresponding amounts from the purport of the allegation. He further observed that two bills were not properly verified. Therefore, as against the allegation of the drawl of a sum of Rs.1,57,648/- for the year 2009, the actual amount covered by the fictitious bills is only Rs.1,18,179/-. This observation cannot be treated as an external factor.

11. The applicant is not able to demonstrate that the findings of the Inquiry Officer are vitiated in any manner. He was given opportunity to defend himself at every stage. The request made by the applicant for the change of the Inquiry Officer was totally untenable and it was rightly rejected. He wanted to drag the proceedings on the one pretext or the other and even by submitting the names of witnesses which, on the face of it, are inaccurate.

12. We do not find any basis to interfere with the order of punishment. The OA is, accordingly, dismissed. There shall be no order as to costs.

(K.N. Shrivastava)
Member (A)

(Justice L. Narasimha Reddy)
Chairman