

Central Administrative Tribunal, Principal Bench

Original Application No.253 of 2003
M.A.No.271/2003

New Delhi, this the 11th day of September,2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. R.K. Upadhyaya, Member (A)

Const. Mohd. Farooq No.528/SW
(PIS No.28880938)
S/o Shri Hazari Khan,
R/o Vill. Hazipur, P.O. Punhana,
Distt. Gurgaon, Haryana

.... Applicant

(By Advocate: Shri Sama Singh)

Versus

1. Government of NCT of Delhi,
Through its Chief Secretary,
Delhi Secretariat, I.P. Estate,
New Delhi-2
2. Commissioner of Police,
Delhi Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-2
3. Addl. Commissioner of Police,
(Armed Police)
New Police Lines,
Kingsway Camp, Delhi-9
4. Deputy Commissioner of Police
Ist Bn., Delhi Armed Police,
New Police Lines,
Kingsway Camp, Delhi-9

.... Respondents

(By Advocate: Mrs. Jasmine Ahmed)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant alongwith others including Constable Ramesh Chand and Constable Jagpal had faced departmental proceedings and the disciplinary authority had imposed the following penalty:

"In view of above facts I concluded that HC M.P. Bhai 104/DAP is not at fault and as such I exonerate him from the charge. As regards remaining four Consts., I agree with the findings of the Enquiry Officer and therefore, award them a punishment of forfeiture of 2 years approved service permanently for a period of 2 years. The pay of Consts. Jagpal, 723/DAP, Ramesh Chand, 785/DAP, Veer Pal, 764/DAP and Mohd.



Farookh, 6079/DAP is reduced by two stages from Rs.3350/- PM to Rs.3200/- PM, Rs.3500/- PM to Rs.3350/- PM, Rs.3725/- PM to Rs.3575/- PM and Rs.3500/- PM to Rs.3350/- PM, respectively in the time scale of pay with immediate effect. They will not earn increments of pay during the period of reduction and on the expiry of this period the reduction will have the effect of postponing their future increments of pay. The suspension period of HC M.P. Bhai, 104/DAP is decided as spent on duty and the suspension period of remaining four Consts. is decided as not spent on duty for all intents and purposes."

The appeal filed by the applicant has since been dismissed.

2. It is not in dispute that the applicant alongwith Constable Ramesh Chand and Constable Jagpal had faced common departmental proceedings.

3. Our attention has been drawn towards the decision rendered by this Tribunal in O.A.2273/2001 dated 8.1.2002. The other co-delinquents namely Constable Ramesh Chand and Constable Jagpal had challenged the order that had been so passed against them. This Tribunal had quashed the proceedings holding:

"11. In our view though this submission of the learned counsel for the respondents has some force but the department had examined all the witnesses which had been relied upon by the department and none of the witnesses had deposed about negligence of duty on the part of the applicants or with regard to mishandling of the unclaimed goods by the applicants so we find that even remanding of the case will not serve any purpose as neither there were any specific charges nor there is evidence to prove the dereliction of duty on the part of the applicants.

12. It appears that the case has been badly handled by the authorities right from the beginning as even proper summary of allegation were not framed. Neither the disciplinary authority nor the appellate authority had examined the case with regard to duty of a police official with reference to unclaimed property. Hence, we have no hesitation to quash the entire proceedings and the

LS Ag

evidence recorded by the Inquiry Officer as well as the order passed by the disciplinary authority. Accordingly, we quash the same and direct the respondents to restore the pay and salary to the applicants within a period of 3 months from the date of receipt of a copy of this order. No costs."

4. Identical is the position herein. Consequently, on parity of reasoning, we allow the present application on the same terms and quash the entire proceedings and the evidence recorded by the enquiry officer as well as the orders passed by the disciplinary and the appellate authority. The respondents are directed to restore the pay and salary of the applicant preferably within four months from today.



(R.K. Upadhyaya)
Member (A),



(V.S. Aggarwal)
Chairman.

/dkm/