

Central Administrative Tribunal, Principal Bench

Original Application No.643 of 2003

New Delhi, this the 16th day of October, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member (A)

Bhushan,
Constable in Delhi Police,
(PIS No.28932275)
R/o V & PO:- Bari,
Tehsil: Ganaur
Dist. Sonepat, Haryana

.... Applicant

(By Advocate: Shri Anil Singal)

Versus

1. Joint Commissioner of Police,
Northern Range, Police Head Quarters,
IP Estate, New Delhi.
4. Deputy Commissioner of Police,
North West District,
PS Ashok Vihar, Delhi

.... Respondents

(By Advocate: Shri Rishi Prakash)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant is a Constable in Delhi Police. Disciplinary proceedings had been initiated against him. The disciplinary authority on 14.2.2002 had imposed the following penalty on him:

"Therefore, I impose a penalty of forfeiture of one year approved service to delinquents HC Baljeet Singh, No.181/NW, Ct.Dharambir Singh No.1943/NW, Ct.Bhushan No.905/NW and Ct.Pawan Kumar No.858/NW (now 889/NW) permanently for a period of one year entailing reduction in their pay from Rs.4390/- to Rs.4305/-, Rs.3725/- to Rs.3650/-, Rs.3425/- to Rs.3350/- and Rs.4135/- to Rs.4050/-. They will not earn increments of pay during the period of reduction and after the expiry of penalty period the reduction will have the effect of postponing their future increment of pay. The suspension period in respect of HC Baljeet Singh, No.181/NW, Ct.Dharambir Singh No.1943/NW and Ct.Bhushan No.905/NW w.e.f. 16.5.2000 is also hereby decided as period not spent on duty for all intents and

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purposes."

He preferred an appeal which has since been dismissed by the Joint Commissioner of Police on 6.7.2002.

2. By virtue of the present application, the applicant assails the said orders.

3. Some of the facts which are not in controversy can be delineated. The applicant alongwith others had faced a joint departmental proceeding. There was a joint enquiry held. The other co-delinquents namely Baljeet Singh and Dharamveer Singh had filed O.A.2642/2002 in this Tribunal and on 4.7.2003, the said application was allowed by this Tribunal recording:

"12. Admittedly, the disciplinary authority has disagreed in so far as allegation of recovery of opium and extortion of money, which has not been proved by the E.O. establishes the same by observing the same as fully proved and imposed upon applicants major punishment. Before referring to the aforesaid, neither any tentative reasons have been recorded nor any opportunity to represent the same has been afforded to them. This has greatly prejudiced applicants and deprived them a reasonable opportunity. As the substantive procedure has been violated, the punishment imposed cannot be sustained in the eyes of law."

4. Identical is the position herein. We find no reason to take a different view. Herein also, tentative reasons had not been recorded nor opportunity to represent against the same had been granted by the disciplinary authority.

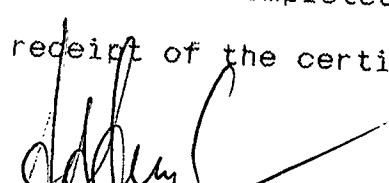
5. Resultantly, on parity of reasoning, we allow the present application and quash the impugned orders. However nothing said herein would preclude the respondents from

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proceeding further from the stage of recording the tentative note of disagreement and affording reasonable opportunity to the applicant, if so advised. It is within the domain of the disciplinary authority to pass appropriate orders, if deemed appropriate. This exercise should be completed preferably within three months of the receipt of the certified copy of the present order.


(S.A. Singh)
Member (A)

/dkm/


(V.S. Aggarwal)
Chairman