

(2)

Central Administrative Tribunal, Principal Bench

Original Application No.1572 of 2003

New Delhi, this the 2nd day of September, 2003

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

1. Const. Kanwar Pal,
No.6039/DAP
2. Const. Anang Pal,
No.670/DAP

(Both presently posted in Ist
Battalion, Delhi Armed Police,
Delhi Police)

.... Applicants

(By Advocate: Shri S.K. Gupta))

Versus

1. Govt. of NCT of Delhi,
through Chief Secretary,
Delhi Secretariat,
Players Bhawan, I.P. Estate,
New Delhi-2
2. Commissioner of Police,
Delhi Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-2
3. Dy. Commissioner of Police,
Ist Battalion, D.A.P.
Delhi Police,
Kingsway Camp, Delhi

.... Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicants are facing disciplinary proceedings and during the pendency of the same, they have been placed under suspension. By virtue of the present application, they assail the order passed by the Deputy Commissioner of Police dated 10.6.2003 which reads:

"Reference this office order No.2838-68/HAP-Ist Bn. DAP dated 9.6.93, on the above noted subject.

Constables Kanwar Pal No.6039/DAP and Anang Pal No.670/DAP have been placed under suspension and a D.E. has also been ordered against them vide this office order under reference.

USA

6

The DCP/Ist Bn. DAP, Delhi has also passed the following observation on the order:-

"ACP/Adj. & RI

(i) to check them in Roll Call to be held at 8 AM, 1 PM, 4 PM, 7 PM and 10 PM as the allegations are quite serious.

(ii) An Inspr./RI with one SI to remain present for the purpose.

(iii) The staff deployed on operation/ other static duty in DAP Control Room, Kot and Ist Bn. DAP lines be also altered on daily basis."

2. The grievance of the applicants is that calling them for roll calls to be held between 8.00 AM to 10.00 PM is improper and inhuman.
3. Needless to state that the petition is being contested.
4. During the course of submissions, learned counsel for the applicants highlighted the abovesaid facts and contended that the said order violates the rights of the applicants who have to prepare for their defence in the departmental proceedings. Our attention in this regard has been drawn towards rule 26(3)(ii) of Delhi Police (Punishment and Appeal) Rules, 1980. The same reads as under:

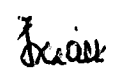
"A Police Officer under suspension shall be transferred to the lines if not already posted there. He shall attend all roll calls and shall be required to perform such duties and to attend such parades as the Deputy Commissioner of Police may direct provided that he shall not perform guard duty or any other duty entailing the exercise of the powers or functions of a Police officer, shall not be placed on any duty involved the exercise of responsibility and shall not be issued of with ammunition. A Police officer under suspension shall ordinarily be confirmed to lines, when off duty, but shall be allowed responsible facilities for the preparation of his defence when transferred to the line, lower or upper subordinate shall

CS Ag


deposit their kits in the line and shall not wear any article of uniform till they are reinstated or specifically permitted by the Commissioner of Police as contained in sub-rule (iii) of Rule 15 of the Delhi Police (General Conditions of Service) Rules, 1980."

5. Reading of the abovesaid rule clearly shows that the concerned police official shall ordinarily be allowed facilities to prepare for his defence when transferred to the line. In face of the clear and unambiguous language of the rule quoted above and in the absence of any other plea, we dispose of the present application directing that the applicants shall be allowed and not subjected to the abovesaid roll call in the impugned order when they have to attend the departmental proceedings or they have to prepare their defence in the said departmental proceedings. But we make it clear that while doing so, they shall inform the concerned authority in this regard and the concerned authority will ensure that the said leniency is not abused.

6. The interim order earlier passed is vacated.



(S.K. Naik)
Member(A)



(V.S. Aggarwal)
Chairman

/dkm/