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Central Administrative Tribunal, Principal Bench

Original Application No.1645 of 2003
M.A.No.1823/2003

New Delhi, this the 29th day of September, 2003

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

Dharmender,
S/o Lt. Shri Bhagat Ram,
R/o Village and P.O. Nistoli,
P.S. Sahibabad,
Distt. Ghaziabad, U.P.

.... Applicant

(By Advocate: Shri L.R. Khatana)

Versus

1. Lt. Governor of NCT of Delhi,
Raj Niwas Marg,
Delhi-54
2. Commissioner of Police, Delhi
Delhi Police Headquarters,
MSO Building, Indraprastha Estate,
New Delhi
3. Additional Commissioner of Police (Security)
Delhi Police,
Security Police Headquarters,
Vinay Marg, Chanakyapuri,
New Delhi
4. Deputy Commissioner of Police (Security)
Delhi Police,
Vinay Marg, New Delhi
5. Deputy Commissioner of Police (DE Cell)
Delhi Police,
Peerless Building,
Asaf Ali Road, Delhi

.... Respondents

(By Advocate: Shri Ajesh Luthra)

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 alongwith Assistant Sub-Inspector Kishan Chand. It becomes unnecessary for us to dwell into the other details but we take advantage of reproducing the summary of allegations as against the applicant and the abovesaid Assistant

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Sub-Inspector of Police which reads:

"It is alleged against Inspr. Rajesh Kaushik, the then SHO/Najafgarh and S.I. Dharam Pal, the then I/C P.P. Kapashera, that they had been forcing the owner of the Fun and Food Village Sh. Balwant Chawla to entertain their people in the part free of cost and also demanded protection money. They also demanded money for the marriage of the daughter of DCP/South-West from the owner of the Fun and Food Village Kapashera and on his refusal, they were threatened to face the consequences.

In the after noon on 25.5.98 at about 6.20 P.M. a Police Party headed by S.I. Dharam Pal, I/C P.P. Kapashera entered the Fun & Food Village Park on the pretext of a hoax bomb call and created panic amongst the visitors. It is alleged that the Police Party was in the park, well before the receipt of bomb call, which indicates that it was pre-planned, and a false case of obstructing police from carrying out their duties was registered against 1) Sh. Balwant Chawla (M.D.) (2) Sh. Santosh Chawla (Director) and (3) Sh. Jagdeep Singh, Manager Fun & Food Village u/s 353/186/34 IPC FIR NO.229/98.

It is alleged against ASI Kishan Chand, No.3302/D that he was marked DD NO.37 dated 25.5.98 at 6.08 P.M. about the bomb call. He alongwith Constable Dharmender reached to the spot and entered the Fun & Food Village and started shouting inside, that there was bomb inside the park and asked all the visitors to go out. This created panic among the visitors, and problem for the management. The management of Fun & Food Village requested them to take the help of their Security staff and search in a proper way, but they did not listen to them and started unnecessary arguments. In such circumstances, efforts should have been made to contact the management and ensure the checking in proper and effective way. In this case no assistance was sought by ASI Kishan Chand and Const. Dharmender but they loudly started ordering the people to go out as there was a bomb in the park. It might have caused stampede. Such action is highly undesirable as the entire area is protected by fencing walls and Security staff. Even if the premises was to be vacated, it could have been done in a systematic way by making announcement on the Public Announcement System. But they failed to do so and later on they gave false statements, which resulted in the registration of a false case u/s 353/186/34 IPC.

The record of the PCR Van present on the spot indicates that initially the Police Party had gained entry inside the park and PCR van flashed the message that I/C P.P. with staff was searching the premises and later on they came out.

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SHO/Najafgarh after reaching the spot did not take any action and even did not try to enter the park, but simply flashed a wireless message that the local police was being refused entry to the park. It was only after the arrival of ACP/Najafgarh that the local police made an entry and conducted the search. It was the duty of S.I. Dharam Pal, as I/C P.P. to get the help of Security staff of the Fun & Food Village and take the management into confidence. But he failed to do so and created a scene, which facilitated in the registration of a case and he knowingly registered a false case against Sh. Balwant Chawla and others.

The above act on the part of Inspr. Rajesh Kaushik, No.D-1/341, the then SHO/Najafgarh, S.I. Dharam Pal, NO.D/3453, the then I/C P.P. Kapashera, ASI Kishan Chand No.3302/D and Constable Dharmender, No.690/SW 1140/Sec. amounts to gross misconduct and misuse of powers in the discharge of their official duties which renders them liable to be dealt with departmentally under rule 16 of the Delhi Police (Punishment & Appeal) Rules, 1980.

I, M.S. Sayed, Addl. Commissioner of Police, Security, Delhi hereby order that Inspr. Rajesh Kaushik, No.D-1/341, S.I. Dharam Pal, No.D/3453, ASI Kishan, No.3302/D and Const. Dharmender, No.690/SW-1140/Sec. may be jointly dealt with departmentally. The enquiry be conducted by Sh. Mahabir Singh, DCP/Security, Delhi on day to day basis and findings be submitted to the undersigned expeditiously as per the laid down instructions."

2. It is not in dispute that ASI Kishan Chand referred to had preferred O.A.1463/2002 seeking quashment of the disciplinary proceedings which were jointly initiated against him and others. This Tribunal on 29.10.2002 had allowed the petition. The disciplinary proceedings against the applicant in the abovesaid O.A.1463/2002 were quashed. However, by way of abundant caution, this Tribunal held that they are not expressing themselves on the merits of the departmental enquiry against other officials and have only examined the case of ASI Kishan Chand.

3. The applicant, on parity of reasoning, claims quashment of the disciplinary proceedings against him. The

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argument of the learned counsel for the applicant was short and simple that the applicant had simply accompanied ASI Kishan Chand and all that is being alleged against him was also alleged against ASI Kishan Chand.

4. We had gone through the summary of allegations with the help of the parties counsel. We have also reproduced above the same in the preceding paragraph. It clearly shows that the applicant as a Constable had accompanied ASI Kishan Chand. The role assigned to him and ASI Kishan Chand was identical. There is nothing extra ~~done~~ done by the applicant.

5. There is also nothing to indicate that the applicant had acted anything in addition to what ASI Kishan Chand had done. In that view of the matter, once the proceedings against ASI Kishan Chand have been quashed, we find no reason but to accept the same reasoning. Resultantly, on parity of reasoning, we quash the proceedings against the applicant.

S.K. Naik
(S.K. Naik)
Member (A)

/dkm/

V.S. Aggarwal
(V.S. Aggarwal)
Chairman