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Central Administrative Tribunal, Principal Bench

O.A. No.1795 of 2003

New Delhi, this the 16th day of March, 2004

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

Smt. Vineeta Tyagi W/Sl
presently posted in Women Cell/North East
District (Delhi Police)
R/o Q.No.15, Type-III, P.S. Preet Vihar,
Delhi-51

....Applicant

(By Advocate: Shri V.P.S. Tyagi)

Versus

1. Govt. of NCT Delhi
(Through its Chief Secretary),
5, Sham Nath Marg,
Delhi
2. The Commissioner of Police
Police Hqrs., Vikas Marg,
New Delhi
3. The Addl. Commissioner of Police,
I.P. Estate,
(Security) Delhi

....Respondents

(By Advocate: Ms. Rashmi Chopra)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant is a Sub-Inspector in Delhi Police.
The disciplinary proceedings had been initiated against him
with respect to the following summary of allegations:

"It is alleged that Sh. Harbhajan Singh S/o
Shri Bhudha Singh, R/o 9/3096, Gali No.4, Dharam
Pura, Gandhi Nagar, Delhi has alleged that in 1984
when he was living in Patna one Shri Rajinder
Kumar of Shiv Shakti Marble House, Shop No.C-56,
A-Block Main Road, Jagat Puri, Delhi and his
family members illegally trespassed and occupied
the plot no.102, Gali No. 7&9 Jagat Puri,
Khureji-Khas, Delhi as much as on 26.10.93 when he
came to Delhi he found that the above noted
persons had forcibly taken the possession of said
plot. He informed the matter to the police but
the police did not take any action. Insp. Teeka
Ram, No.D-I/287, then SHO/Krishna Nagar did not
register a case in this respect and the case was
registered vide FIR No.70/94 dated 24.02.94 U/s

(Signature)

448/468/471/420/34 IPC P.S., Krishna Nagar, Delhi, only after the enquiry conducted by ACP/HQ/East and by the orders of senior officers. Thereafter a Kalandra U/s 145 Cr.PC was prepared on 16.07.94 by W/SI Vinita Tyagi No.D/2089 but the same was not got forwarded to S.D.M.'s court till 28.01.97 which is a serious lapse on her part being the I.O. Further during the investigation of the case neither the admitted specimen hand writing of the accused were taken nor any opinion of any Govt. Examiner of questioned documents was taken. In the absence of such a report, it is not possible to challan a case. It is obvious that Insp. Teeka Ram while posted as SHO/Krishna Nagar had malafide intention in this case and he first did not register a case. Subsequently, after the registration of the case he neither investigated the case meaningfully nor the Kalandra U/s 145 Cr.PC was put up in the SDM's Court.

The above act on the part of Insp. Teeka Ram, No.D-I/287 and W/SI Vinita Tyagi, No.D/2089 amounts to gross misconduct, negligence, malafide intention and dereliction in the discharge of their official duties which renders them liable to be dealt with departmentally under the provisions of Delhi Police (Punishment and Appeal), Rules, 1980."

2. The enquiry officer had returned the findings partly against the applicant. Resultantly, the disciplinary authority had imposed the following penalties:

"I, J.K.Sharma, Addl. C.P./Security award them the punishment of forfeiture of two years approved service for a period of two years with cumulative effect. Accordingly, the pay's of Insp. Teeka Ram No.D-2089 are reduced by two stages from 1800/- p.m. to Rs.7700/- p.m. and Rs.7075/- p.m. to Rs.6725/- p.m. respectively in the time scale of pay for a period of two years from the date of issue of this order. 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."

He preferred an appeal. The Commissioner of Police reduced the penalty to that of censure.

3. Learned counsel for the applicant assails the

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said orders contending:

(a) the enquiry officer was the same person who held the preliminary enquiry and, therefore, the claim of the applicant is prejudiced; and

(b) the censure order that has now been passed could only be made effective from the earlier date and not from the date it has been passed.

4. The petition has been contested.

5. We have carefully considered the submissions made at the Bar. So far as the question of prejudice having been caused as a result of the enquiry officer being the officer who conducted the preliminary enquiry is concerned, it must be stated and in fact was fairly conceded that on an earlier occasion, no such objection was taken except that an appeal was filed. It is obvious from the aforesaid that the applicant submitted before enquiry officer without raising any objection. It is too late in the day now to raise such a contention particularly when this fact has not been gone into.

6. It is true that the disciplinary authority had imposed multifarious penalties but that order has been merged into that of the appellate authority. The appellate authority had reduced the penalty to that of censure. When

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such a penalty is imposed, necessarily it would be effective from the date of order and should not be made effective from any past date. Therefore, this particular plea in this backdrop must be held to be devoid of merit.

7. Resultantly, the O.A. must fail and is dismissed.

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

/dkm/

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