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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1974/2003

New Delhi this the 5th day of March, 2004.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)
HON'BLE MR. S.K. NAIK, MEMBER (ADMNV)

Inderjeet Singh,
ASI in Delhi Police,
(PIS No.28700061),
R/o C/o Sh. Vinod Kumar Sharma,
E-242, Gali No.6,
Subhash Vihar,
Near Delhi Darbar,
Bhajan Pura, Delhi-53.

-Applicant

(By Advocate Shri Anil Singhal)

-Versus-

1. Govt. of NCT of Delhi through
Commissioner of Police,
Police Head Quarters,
I.P. Estate, New Delhi.
2. Addl. Commissioner of Police,
PCR & Communication, PHQ,
I.P. Estate, New Delhi.
3. DCP (PCR),
Police Head Quarters,
I.P. Estate, New Delhi.

-Respondents

(By Advocate Sh. Ram Kanwar)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

Major penalty of temporary forfeiture of one year
with reduction in pay imposed vide order dated 1.4.2003 as
well as appellate order dated 14.7.2003 upholding the
punishment are assailed.

2. Applicant working as Assistant Sub Inspector
in Delhi Police was proceeded against under Rule 16 of the
Delhi Police (Punishment and Appeal) Rules, 1980 for a major
penalty on the allegations of not writing the case diaries
and not taking any action on the false information given by
one Rajesh Gupta.

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3. On examination of prosecution and defence witnesses and on submission of written statement of defence by the applicant and another co-defaulter vide a common findings charge has been proved.

4. On representation against the finding by applicant a major penalty was imposed, which was affirmed by the appellate authority, giving rise to the present OA.

5. Though several contentions are raised by the learned counsel for applicant but at the outset, abrupt, inconclusive and non-reasoned finding is the main legal plea taken by applicant.

6. Learned counsel for applicant by referring to Rule 16 (ix) of the Rules contends that it is incumbent upon the enquiry officer (EO) to record reasons in support of conclusion drawn, holding the charge proved, as this has not been done the finding as well as consequent orders are vitiated.

7. On the other hand, respondents' counsel on this issue contends that the enquiry was held against applicant in accordance with the procedural rules where the charge is fully proved. Applicant was afforded a reasonable opportunity to defend.

8. We have carefully considered the rival contentions of the parties and perused the material on record. On perusal of the enquiry report we find that after reproduction of summary of allegations examination of

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witnesses and the contents of the defence statement filed by applicant and other co-defaulter the following conclusion has been recorded by the EO to establish the charge:

"In view of the above stated facts it is evident that I am not at fault and the charge framed against me, is not substantiated. It is, therefore, requested that I may kindly be exonerated from the charge framed against me in the interest of natural justice.

As per discussion, mentioned above, I have gone through documents and the evidence on record the defaulter have not proved anything, the charge is proved, as they have not taken proper action which was required on their part as per law. Charge is totally proved in toto."

9. Rule 16 (ix) of the Delhi Police (Punishment and Appeal) Rules, 1980 provides as under:

"(ix) The Enquiry Officer shall then proceed to record the findings. He shall pass orders of acquittal or punishment if himself empowered to do so, on the basis of evaluation of evidence. If the proposes to punish the defaulter he shall follow the procedure as laid down in Rule 16 (xii). If not so empowered he shall forward the case with his findings (in duplicate) on each of the charges together with the reasons therefor, to the officer having the necessary powers. If the enquiry establishes charges different from those originally framed, he may record finding on such charges, provided that findings on such charges shall be recorded only if the accused officer has admitted the facts constituting them or has had an opportunity of defending himself, against them."

10. The Apex Court in Anil Kumar v. Presiding Officer and Others, 1985 SCC (L&S) 815:

"5. We have extracted the charges framed against the appellant. We have also pointed out in clear terms the report of the enquiry officer. It is well-settled that a disciplinary enquiry has to be a quasi-judicial enquiry held according to the principles of natural justice and the enquiry officer has a duty to act judicially. The enquiry officer did not apply his mind to the evidence. Save setting out the names of the witnesses, he did not discuss the evidence. He merely recorded his ipse dixit that the charges are proved. He did not assign a single reason why the evidence produced by the appellant did not appeal to him or was considered not creditworthy. He did not permit a peep into his mind as to why the evidence

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produced by the management appealed to him in preference to the evidence produced by the appellant. An enquiry report in a quasi-judicial enquiry must show the reasons for the conclusions. It cannot be an ipse dixit of the enquiry officer. It has to be a speaking order in the sense that the conclusion is supported by reasons. This is too well-settled to be supported by a precedent. In **Madhya Pradesh Industries Ltd. v. Union of India**, this Court observed that a speaking order will at best be a reasonable and at its worst be at least a plausible one. The public should not be deprived of this only safeguard. Similarly in **Mahabir Prasad Santosh Kumar v. State of U.P.**, this Court reiterated that satisfactory decision of a disputed claim may be reached only if it be supported by the most cogent reasons that appealed to the authority. It should all the more be so where the quasi-judicial enquiry may result in deprivation of livelihood or attach a stigma to the character. In this case the enquiry report is an order sheet which merely produces the stage through which the enquiry passed. It clearly disclosed a total non-application of mind and it is this report on which the General Manager acted in terminating the service of the appellant. There could not have been a more gross case of non-application of mind and it is such an enquiry which has found favour with the Labour Court and the High Court.

6. Where a disciplinary enquiry affects the livelihood and is likely to cast a stigma and it has to be held in accordance with the principles of natural justice, the minimum expectation is that the report must be a reasoned one. The Court then may not enter into the adequacy or sufficiency of evidence. But where the evidence is annexed to an order sheet and no correlation is established between the two showing application of mind, we are constrained to observe that it is not an enquiry report at all. Therefore, there was no enquiry in this case worth the name and the order of termination based on such proceeding disclosing non-application of mind would be unsustainable".

11. If one has regard to the above, being a quasi judicial authority it is incumbent upon the EO as per rules to record his findings on each article of charge with reasons. The EO in the present case though reproduced the defence statement and testimony of witnesses both PWs and DWs while concluding has not at all recorded his findings or reasons as to why the charge has been proved against applicant. The only ground to substantiate the charge is that applicant has not proved anything which on the face of

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it makes the enquiry report as inconclusive, abrupt, non-speaking, without application of mind and the mechanical exercise.

12. Being a quasi judicial authority it is incumbent upon the EO to record a finding as the delinquent is afforded an opportunity to rebut the conclusion more particularly when this finding is based on punishment to be imposed by the disciplinary authority. In this manner for want of reasons on abrupt conclusion right of delinquent official to effectively defend is certainly prejudiced.

13. In the light of the decision of the Apex Court in Anil Kumar's case (supra) it is incumbent upon the EO to record reasons and to show that why the defence evidence tendered has not out weighed the prosecution. Merely writing that the defaulter has not proved anything is beyond all canons of justice. Burden to prove the charge is on the person who alleges and not to be disproved by the delinquent official unless the responsibility is discharged by the prosecution one cannot be held guilty of the charge. However, without going into the merits on the ground of inconclusive finding which is not in consonance with Rule 16 (ix) of the Rules, OA deserves to be partly allowed.

14. In the result, for the foregoing reasons, OA is partly allowed. Impugned orders are quashed and set aside. The matter is remanded back to the respondents to be resumed from the stage of recording the findings strictly in accordance with rules.

15. The other grounds raised are not adjudicated.

No costs.

~~S. K. Naik~~
(S.K. Naik)
Member (A)
'San.'

S. Raju
(Shanker Raju)
Member (J)