

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1998 OF 2003

New Delhi, this the 20th day of April, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

HC MOHINDER SINGH (NO.100431)
S/O SH. HAZARI LAL
AGED ABOUT 46 YEARS
R/O VILLAGE & POST, DICHAU KALA
NAZAFGARG, DELHI

.....Applicant
(By Advocate : Shri T.D. Yadav)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police,
Police Headquarters, I.P. Estate,
New Delhi.
2. Additional Commissioner of Police,
Security : New Delhi.
3. Deputy Commissioner of Police,
IX Bn. DAP: Delhi.

.....Respondents
(By Advocate : Mrs. Sumedha Sharma)

ORDER (ORAL)

SHRI JUSTICE V.S. AGGARWAL:-

The applicant is a Head Constable in Delhi Police. On the following summary of allegations, the disciplinary proceedings had been initiated against him:-

"It is alleged against HC Mahinder Singh, No.10043/DAP (PIS No.28790574) that while posted in E-Block Security Lines and entrusted with the duties as P.S.O. to P.P. Sh. B.L. Sharma Prem at C-98, D.K. Dutt Colony, New Delhi was found absent from duty when checked by Sh.M.L. Kararwal, ACP/10th Bn. DAP on 9.7.2002 at 14.00 hrs. The Daily Diary Register was found concealed under a table, which was found after some searching. He has made fake entries for 9, 10 & 11.7.2002 in advance. He had shown himself duty rest on 8.7.2002 and 30.6.2002, which could not be corroborated from the record. On further perusal of the Daily Diary it has been found that at many places

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he has failed to write the time of making these entries. Thus the HC has violated the existing rules and instruction with regard to the lodging a D.D. entries in Daily Diary apparently.

The above act on the part of HC Mahinder Singh, No.10043/DAP amounts to cheating, gross indiscipline, carelessness and dereliction in the discharge of his official duties the said misconduct of the HC is liable to be dealt with departmentally under the provision of Delhi Police Act-1978 and Delhi Police (Punishment & Appeal) Rules-1980."

2. The inquiry officer almost on the same lines had drawn a charge against the applicant and held that it was proved. The disciplinary authority on 5.12.2002 had imposed the following penalty:-

"...Therefore, Keeping in view the gravity of misconduct, I. R.K. Verma, Deputy Commissioner of Police, 9th Bn.DAP, Delhi impose upon defaulter HC Mahinder Singh, No.10043/DAP the penalty of forfeiture of one year approved service permanently entailing reduction in his pay from Rs.4135/- P.M. to Rs.4050/- P.M. He is re-instated in service from suspension and suspension period from 9.7.2002 to date of issue of this order is decided as not spent on duty for all intents and purposes."

3. The applicant preferred an appeal, which has been dismissed by the appellate authority, i.e., Additional Commissioner of Police on 6.3.2003.

4. By virtue of the present Original Application, the applicant assails the orders passed by the disciplinary as well as appellate authorities.

5. Needless to state that the Original Application is being contested.

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6. Learned counsel for the applicant contends :

(a) the penalty imposed upon the applicant is contrary to Rule 8 (d)(ii) of the Delhi Police (Punishment & Appeal) Rules, 1980 (hereinafter in short 'the Rules') and relying upon the decision of the Delhi High Court in the case of Shakti Singh Vs. Union of India and Others in Civil Writ Petition NO.2368 of 2000 decided on 3.9.2002; (b) the statement of the defence witness DW1 Driver Dheerj Kumar has not been considered; and (c) the applicant has not derelicted any duty.

7. So far as the controversy pertaining to Rule 8 (d)(ii) of the above Rules and the decision of the Delhi High Court in the case of Shakti Singh (supra) is concerned, - the plea is simply stated to be rejected. In the case of Shakti Singh (supra), the penalty imposed reads:-

"The charge levelled against Insp. Shakti Singh, No.D-1/231 is fully proved... Thus, the pay of Insp. Shakti Singh, No.D-1/231 is reduced by five stages from Rs.2525/- to Rs.2100/- in the time scale of pay for a period of five years. He will not earn increment of pay during the period of reduction and on the expiry of this period, the reduction will have the effect of postponing his increments of pay."

8. It is obvious from what we have reproduced above that there the penalty was of a different nature. In fact Rule 8 (d)(ii) of the Delhi Police (Punishment & Appeal) Rules, 1980 reads:-

8 (d) Forfeiture of approved service.-Approved service may be forfeited

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permanently or temporarily for a specific period as under:-

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(ii) Entailing reduction in pay or deferment of an increment or increments (permanently or temporarily).

A perusal of the same clearly shows that penalty of forfeiture of service whether permanent or temporary can entail reduction in pay. There is no further order that deferment of an increment or increments and consequential penalty and the present case must be stated to be in consonance with the rules and that the decision of Delhi High Court in. Shakti Singh (supra) does not apply in the present case.

9. So far as non-consideration of the statement of DW1 Driver Dheerj Kumar is concerned, the appellate authority has specifically considered the same and thereupon had dismissed the appeal of the applicant. It is also specifically mentioned by the inquiry officer and consequently it cannot be termed that the statement of witness produced by the applicant has not been considered.

10. At this stage, we deem it necessary to mention that it is within the domain of the disciplinary authority to pass an appropriate order on consideration of the evidence on record. This Tribunal will not sit as a Court of appeal and scrutinise the said evidence.

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11. In totality of the facts, once evidence has been considered and taken note of, the said contention also must fail.

12. Lastly as to the question about the dereliction of duties, the records reveal that the applicant had concealed the Daily Diary Register under the table and he had made fake entries about attendance for 9.7.2002, 10.7.2002 and 11.7.2002 in advance. The applicant has shown himself on duty rest on 8.7.2002 and 30.6.2002. These are all derelictions of duties which are not expected from an officer in a disciplined force. No other argument has been raised. *CB*

13. In the result, for the reasons in the preceding paragraphs, the present Original Application being without merit, must fail and is accordingly dismissed.

Upadhyaya

(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

V.S. Aggarwal

(V.S. AGGARWAL)
CHAIRMAN

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