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Central Administrative Tribunal, Principal Bench

Original Application No.3180/2003

New Delhi, this the 2nd day of January, 2004

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

Umed Singh, H.C. No. 365/PCR,
South West Zone, PCR,
Delhi.

...Applicant

(By Advocate: Shri U. Srivastava)

Versus

1. Govt. of NCT of Delhi through
The Chief Secretary,
Govt. of N.C.T. of Delhi,
Old Secretariat, New Delhi.
2. The Commissioner of Police,
Police Headquarters,
I.P. Estate, New Delhi.
3. Additional Commissioner of Police,
PCR & Communication,
Delhi.
4. The Dy. Commissioner of Police,
Police Control Room,
Delhi.

...Respondents

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant is a Head Constable in Delhi Police. Disciplinary proceedings had been initiated against him. Summary of allegations which are almost identical with the charge that was framed are:

"It is alleged against H.C. Umed Singh No. 43/Crime (Now 365/PCR) (PIS No. 28760592) and Const. Mohd. Hanif No. 136/DRP (Now 1957/PCR) (PIS No. 28880162) while posted in Crime & Rlys., Unit of Delhi Police were detailed to perform duty at platform No. 10, New Delhi Railway Station on the night intervening 16/17.2.98, they wrongfully detained one Man Singh and used third degree methods upon him in order to

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extract confession from him. In the morning at about 4.30 A.M. the said Man Singh was found unconscious by HC Mohd. Haroon, No. 100/DRP. He took him to Lady Harding Hospital where he was declared brought dead by the doctor. A case vide FIR No. 120/98 u/s 342/330/304/34/IPC Police Station N.D.L.S. was registered. The postmortem examination on the body of the deceased was conducted by Medical Board consisting of three doctors. They observed 30 injuries on the external part of the body. All the injuries were ante-mortem in nature and were just before the death. The injury No. 30 mentioned in the report was sufficient to cause death in the ordinary course of nature. An enquiry into the incident was also got conducted by Sh. G. Sudhakar, S.D.M. Sadar Bazar/Rlys. u/s 176/Cr.P.C.

You H.C. Umed Singh No. 43/Cr. (Now 365/PCR) and Const. Mohd. Hanif, No. 136/DPR (Now 1957/PCR) were arrested in the above noted case on 17.2.1998 and later on released on bail by the court. For which they were placed under suspension vide DCP/Crime & Rly. Delhi's order No. 164-190/SO-Addl. DCP/Rly. dated 17.2.1999 and later on reinstated from suspension without prejudice the criminal case pending against them vide DCP/Crime & Rlys., Delhi's order no. 4432-4455/HAP (C&R) dated 14.10.1998.

After completion investigation of the above noted case, the case was went to court for trial. Later on, the Hon'ble Court of Shri S.L. Bhayana, Addl. Session Judge Delhi Police officials due to lack of evidences and also giving benefit of doubt to the accused person.

The above act on the part of you H.C. Umed Singh No. 365/PCR and Const. Mohd. Hanif, No. 136/DPR (Now 1957/PCR) in which they wrongfully detained Man Singh and beaten him severely resulting death is greavest misconduct in nature as well as indulging in criminal activities of a member of law enforcing agency is also an act of unbecoming member of such agency for which they are liable to be dealt departmentally under the provisions of Delhi Police (Punishment & Appeal) Rules, 1980."

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2. The applicant was tried by the court of competent jurisdiction and on 4.4.2001 had been acquitted. However, in the departmental proceedings which we have referred to above, it was concluded that the charges based on the summary of allegations stood proved. The disciplinary authority had imposed a penalty of forfeiture of one year's approved service permanently. The operative part of the order reads:-

"However, taking their previous clean record into consideration, I am inclined to take a lenient view and order that one year approved service of defaulters HC Umed Singh No. 365/PCR and Const. Mohd. Hanif, No. 1957/PCR is forfeited permanently entailing reduction in their pay from Rs. 4645/- p.m. to Rs. 4560/- p.m. and Rs. 3965/- p.m. to Rs. 3880/- p.m. respectively with immediately effect. Their suspension period from 17.2.1998 to 13.10.1998 is decided as period not spent on duty."

He ... preferred an appeal. The same has since been dismissed. Hence the present application.

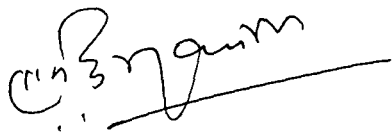
3. So far as the acquittal of the applicant from the court of the learned Additional Sessions Judge is concerned, that will have little import vis-a-vis the penalty that has been awarded. The reason being that a person is tried in the court of law with respect to any offence purported to have been committed. Therein, as per the law, the proof has to be beyond all reasonable doubts. Disciplinary proceedings are initiated to maintain discipline in the department. Herein, a finding can be

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arrived at even on preponderance of probabilities. Therefore, to contend that because the applicant had been acquitted and, therefore, the said judgement must reflect itself on the disciplinary proceedings, by itself will have little thrust.

4. In that event, learned counsel for the applicant argued that there was no material against the applicant to prove the assertions. The findings arrived at by the departmental authorities clearly show that as per the report of Sub Divisional Magistrate, the deceased had been caught by the Military personnel travelling in Karnataka Express. Thereafter he is supposed to have been handed over to the applicant. It is in this backdrop that the findings had been arrived at that he had derelicted in duty in wrongfully detaining the deceased. The findings cannot be stated to be so preposterous to come to a conclusion that this Tribunal should interfere.

5. No other plea has been raised. The penalty in any event cannot be stated to be excessive. For these reasons, the OA being without merit must fail and is dismissed. *in limine.*



(R.K. Upadhyaya)
Member (A)



(V.S. Aggarwal)
Chairman