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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 45/2003
MA 38/2003

New Delhi, this the 8th day of January, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Sh. V.Srikantan, Member (A)

1. Head Constable Jai Bhagwan
No.992/PCR, S/o Sh. Ram Kumar
H.No. 28, Police Colony
A-3, Paschim Vihar, New Delhi - 63.
2. Head Constable Prem Raj
S/o Sh. Gopi Chand
R/o H.No.180, Gali No.5, Tomar Colony
Kamal Pur, Burari, Delhi - 84.

...Applicants

(By Advocate Sh. Rajiv Kumar)

Vs.

1. Union of India through
its Secretary
Ministry of Home Affairs
North Block, New Delhi.
2. Commissioner of Police
Delhi Police Headquarters
I.P.Estate, M.S.O.Building, New Delhi.
3. Joint Commissioner of Police
Operations, Police Headquarters
I.P.Estate, M.S.O.Building, New Delhi.

...Respondents

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, VC (J)

We have heard Sh. Rajeev Kumar, learned counsel for the applicants.

2. This application has been filed by two applicants impugning the Departmental enquiry proceedings against them and the penalty orders issued by the disciplinary authority by order dated 11-3-2002, by which a punishment of forfeiture of two years approved service temporarily for a period of two years had been imposed on them. Appeal filed by the applicants against the punishment orders was rejected by the appellate authority by order dated 23-10-2002, confirming the punishment already imposed on them.

3. The applicants have impugned the

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punishment orders imposed on them by the respondents and have prayed that the same may be quashed and set aside with all consequential benefits. Learned counsel for the applicants has submitted that this is a case of no evidence and, therefore, the findings of the E.O. are not warranted. He has submitted that neither the prosecution witnesses nor the defence witnesses have deposed anything against the applicants in the Departmental enquiry and, therefore, the punishment orders should be quashed and set aside. We note from the documents on record that a joint Departmental enquiry was ordered against the two applicants under the provisions of the Delhi Police (Punishment and Appeal) Rules, 1980, by order dated. 3-7-2000. The allegations against the applicants were that on 9-4-2000 Sh. P.D.Puggal, ACP/Hdqs IGI Airport visited the IGI Airport Terminal-II in the morning for a surprise checking. Gulf flight arrived at the airport at about 6.00 AM. He went to the visitors Arrival Hall ^{B/-} incognito to watch the activities of the staff. According to the respondents, this officer had found the applicants intercepting the passengers at the Airport. Thereupon, they had both slipped away from there and the ACP had made enquiries from one Nazir Hussain who was the last passenger intercepted by the applicants before they slipped away. This passenger had told him that some Dirhams had been taken away from him. Thereupon Sh. Puggal had taken Nazir Hussain to the Vigilance Office where both the applicants also arrived. The statement of the passenger, Nazir Hussain, was recorded in the presence of the applicants and other officers on duty. The statement of other officers were also recorded.

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4. In the summary of allegations against the applicants, the above facts have been narrated. It has also been stated that both the Head Constables/applicants have pleaded for mercy stating that they have thrown the Dirhams. It has been alleged by the respondents in the summary of allegations that as per duty roaster, the duty of the applicant No.1 was outside the Departure Hall of the Airport and of applicant No.2 was in the Check-in Area and Transit Hall on Departure side. It was, therefore, alleged that both of them had left their duty points and were found intercepting the passengers with ulterior motives at the Arrival Hall. They were, therefore, charged with gross mis-conduct, carelessness and negligence unbecoming of a Govt. servant. We note from the Enquiry Officer's report (Annexure A-3) that the Enquiry Officer has discussed the evidence which has been placed before him during the Departmental enquiry proceedings held against the applicants. He has referred to the statements of as many as 6 PWs and 4 DWs. He has stated, inter alia, that PW-5 Sh. P.D.Puggal, the then ACP Hdqrs., IGI Airport, New Delhi had given his statement, as briefly mentioned above. The Enquiry Officer has noted that the applicants had left their duty points and went to the Arrival Hall which fact has been proved by the statement of this witness who had clearly stated in his statement during the disciplinary enquiry proceedings that both of them were seen by him in the Arrival Hall. He has also referred to the statements of the other witnesses. On the basis of the evidence produced before him during the disciplinary enquiry proceedings, the Enquiry Officer had come to the

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conclusion that the applicants had left their duty points without any reason and went to the Arrival Hall on 9-4-2000. During the hearing learned counsel for the applicant has submitted that there is no doubt that the applicants were posted at the Departure Hall and not at the Arrival Hall on 9-4-2000. The Enquiry Officer had, therefore, concluded that the charge of leaving the duty points by the applicants was proved. The disciplinary authority as well as the appellate authority have considered the relevant records placed before them, including the findings of the Enquiry Officer. The disciplinary authority in its order dated 11-3-2002 has held that the charge that the applicants were not at the duty points has been proved and proceeded to award the punishment of forfeiture of two years of service temporarily for a period of two years and proportionate reduction in their pay. The appellate authority had also upheld this punishment.

5. In the facts and circumstances of the case, we are unable to agree with the contentions of the learned counsel for the applicants that this is a case of no evidence. As seen from the relevant records which have been annexed to the OA, the Departmental enquiry proceedings have been held in accordance with law, rules and instructions by the respondents. The applicants have been given a reasonable opportunity of hearing in that enquiry. The only ground taken by the applicants' counsel is that this is a case of no evidence, which is not correct as seen from the documents on record.

6. In this view of the matter, we see no merit in this application and we do not, therefore, find any justification to even issue notice to the


V.S./

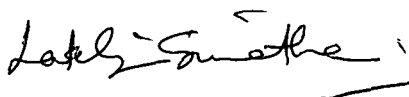
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respondents. We find no other grounds to justify any interference in the matter.

7. In the result, for the reasons given above, OA fails and is accordingly dismissed at the admission stage itself.


(V. Srikantan)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

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