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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.117/2003

This the 14th day of January, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri V. Srikantan, Member (A)

1. Trilok Chand
No.529/SW
S/o Shri Onkar Singh,
R/o Village & PO Nahar,
District Rewari, Haryana.
2. Vijender Kumar
No.1142/SW
S/o Shri Bhanu Dutt
Vill. & PO Bhaproda,
District Jhajjar, Haryana.

....Applicants

(By Advocate : M.K. Bhardwaj)

Versus

Union of India & Ors. through

1. The Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. The Addl. Commissioner of Police,
Southern Range, Police HQ,
I.P. Estate, New Delhi.
3. The Deputy Commissioner of Police,
South West District Vasant Vihar,
New Delhi.

.....Respondents

ORDER (ORAL)

Shri Justice V.S. Aggarwal, Chairman :

MA No.104/2003

MA 104/2003 is allowed subject to just exceptions. Filing of joint application is permitted.

OA No.117/2003

The applicants are Constables in Delhi Police. The disciplinary authority, after the departmental inquiry, had ordered withholding of next increment



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temporarily for a period of one year. They were reinstated from suspension and their suspension period was directed to be treated as not spent on duty. The appeal filed by the applicants has since been dismissed and hence the present application seeking quashing of the said orders.

2. The relevant facts are that the applicants were posted as Special Staff/SWD detailed in plain clothes in Special team formed to lay traps at most affected areas for crime at Vasant Lok Market. Suffice to say, they are alleged to have gone in the area of Delhi Cantt. without taking permission of the Inspector/competent authority and carried the Fire Arms un-authorisedly. There they stopped one couple, who were riding in a Scooter in front of Maharaja Ranjit Singh Dwar, Station Road, Delhi Cantt. The applicants were stated to have been given instructions not to leave their assigned area and not to carry with them any service revolver/weapon without prior permission of the competent authority, but they violated the same.

3. Learned counsel for the applicants contended :
(a) there was no evidence to prove the said charges,
(b) in case of necessity, it was the duty of the applicants to arrest the alleged couple, (c) first information report has been recorded against the said persons on the Scooter; and (d) punishment awarded is disproportionate to the alleged dereliction of duty.

As Ag —————

4. For purposes of convenience, we take up all the points simultaneously as raised at the bar together. As often pointed and is rementioned at the risk of repetition that this Tribunal is not sitting as a court of appeal over the orders passed by the disciplinary authority. The disciplinary authority can come to certain findings on propensity of probability. If unless it is a case of no evidence, findings are totally perverse or no reasonable man will come to such a conclusion, which is not so in the present case, the judicial review interference would not be called for.

5. As referred to above, the assertions against the applicants were that they had been given instructions not to leave their assigned area and not to carry any service revolver/weapon without prior permission of the competent authority, but they are stated to have violated the same, as they had moved outside the jurisdiction. In this regard, the order of the appellate authority reads as under:-

"The plea of the appellants can not be accepted because the appellants are not empowered to seize smuggling goods under the relevant provisions of law and they were duty bound to inform their Seniors and a check if at all required was to be carried by an officer not below the rank of a Sub-Inspr. As such the act of stopping and checking the scooter was illegal act."

6. When such is the position, we find precious little to permit the argument. Suffice to say, the facts of the case cannot be termed to impose punishment disproportionate to the alleged dereliction

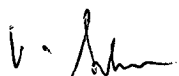
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of duties. At this stage, we are not expressing any opinion with respect to FIR made and the case which is pending.

7. Resultently, there is no ground to interfere in the matter. Accordingly, OA is dismissed in limine.



(V. Srikantan)
Member (A)



(V.S. Aggarwal)
Chairman

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