
(2017) 10 DEL CK 0332

In the Delhi High Court

Case No : Civil Writ Petition No. 8992 Of 2017, Civil Miscellaneous No. 36789 Of 2017

Manoj Kumar

APPELLANT

Vs

Commissioner Of Police And Ors.

RESPONDENT

Date of Decision : 13-10-2017

Acts Referred:

Delhi Police (Punishment & Appeal) Rules, 1980 — Rule 15(2)
Indian Penal Code, 1860 — Section 34, 34, 323, 427, 448, 452

Citation : (2017) 10 DEL CK 0332

Hon'ble Judges : Vipin Sanghi, J; Rekha Palli, J

Bench : Division Bench

Advocate : S.K. Gupta, Satyakam

Final Decision : Dismissed

Judgement

Vipin Sanghi, J

1. The petitioner has preferred the present writ petition assailing the orders dated 2nd January, 2012 & 19th September, 2016 passed by the Central

Administrative Tribunal, Principal Bench, New Delhi in OA No.903/2010, and in the Review Application being R.A. No.55/2012 preferred by the

petitioner-applicant. By the impugned order, the Tribunal had disposed of the said Original Application, along with OA No.1747/2010 preferred by one

Shri Rajender Prasad Saini. The Review Application too stands dismissed. The petitioner herein and Shri Rajender Prasad Saini were subjected to

joint departmental inquiry for the alleged misconduct. Their cases were dealt with together by the respondent-authorities. Consequently, the original

applications of the two were also dealt with by the common order.

2. The inquiry was held against the petitioner and Rajender Prasad Saini

primarily on account of registration of a false case against one Puran Chawla and ASI M.S Patwal vide FIR No.147/2000 u/s 452/448/427/323/34 IPC, in the background that on 03.09.2000 at about 3:11 p.m., a call of quarrel at the residence of one Sh. Ramesh of Salapur Khera, Bijwasan, Sector 21, Gurgaon was received. Though the same was attended to by ASI Narain Singh of PS Kapasehra, the DD entry i.e. DD No.15A dated 03.09.2000 was interpolated so as to show that the said call was attended to by the petitioner SI Manoj Kumar. Pertinently, the petitioner was not on emergency duty at that time. The manipulation in the DD entry was also evident from the record of the PCR Van Z-87, which attended the call. The same showed that the call was attended to by ASI Narain Singh, and not the petitioner. The petitioner was also charged with detaining one Puran Chawla at about 7:00 p.m. when the said person had gone to PS Kapashera to give a written complaint against the aforesaid Ramesh and one Johri Gupta. It was also alleged that the SHO PS Kapashera had assaulted another police officer ASI M.S. Patwal who had gone to the said police station to help Puran Chawla. A case FIR No.147/2000 u/s 452/448/427/323/34 IPC was registered in the police station on the complaint of Ramesh Kumar against Puran Chawla and ASI Patwal with the allegation that they had threatened him with dire consequences. This case was assigned to the petitioner SI Manoj Kumar for further investigation, who arrested both Puran Chawla and ASI Patwal in the said case. Subsequently, they were released on bail. Both Puran Chawla and ASI Patwal submitted a complaint regarding their false implication in the said case. Consequently, the investigation in the case was transferred to District Crime Cell and the investigation showed false registration of the complaint against Puran Chawla and ASI Patwal. A cancellation report was filed before the court which was accepted on 16.11.2002 with the observation that the entire incident was, prima facie, stage managed and concocted.

3. In the departmental inquiry, the prosecution led evidence of eight witnesses. The delinquent employees, including the petitioner, were also granted opportunity to lead their evidence and five defence witnesses were examined. The inquiry officer submitted a detailed report holding the petitioner and the co-delinquent guilty of misconduct. After granting opportunity to the petitioner, the disciplinary authority vide his order dated 19th May, 2008

imposed the penalty of forfeiture of two years approved service temporarily for a period of two years, entailing proportionate reduction in his pay. The

appeal preferred by the petitioner was also rejected vide order dated 13th October, 2009 by the Commissioner of Police.

4. The petitioner in his original application raised several issues so as to claim that the departmental proceedings were vitiated. The primary submission raised by the petitioner before the Tribunal was that it was a case of "no evidence", and that the inquiry officer had completely disregarded the defence evidence. The Tribunal did not find any merit in either of the submissions.

5. Before us, the submission of Mr. Gupta - learned counsel for the petitioner, is that not only the Original Application, but the review application had

been dismissed by the Tribunal without considering the various issues raised by him in the Original Application. The further submission of learned

counsel for the petitioner is that even the original of the DD entry- which was allegedly interpolated, was not produced in the inquiry proceedings.

6. Before us, apart from making a general and casual submission that the tribunal had not considered the several pleas of the petitioner, learned

counsel for the petitioner has not pointed out as to which plea of his was actually pressed by him before the tribunal, and not considered. We have also

asked the counsel to point out as to which plea of the petitioner he would like to press before us. The only plea urged by Mr. Gupta before us, is the

one taken note of herein above.

7. We do not find any merit in the aforesaid submission of Mr. Gupta for the reason that it is not the petitioner's case that the DD entry in

question was not produced in the inquiry. His only submission is that the original of the said DD entry was not produced. If the petitioner was so

minded, he could have obtained copy of the DD entry and produced the same, if he wished to rely upon it. It is not the petitioner's case that the

copy so produced in the inquiry was not the true copy of the original. We also find that the inquiry officer, in his discussion, has taken into account

even the defence evidence. We may also observe that the order passed by the disciplinary authority, and even the appellate order placed on record,

show that the aforesaid submission was extensively considered by the appellate authority in detail.

8. After summarizing the evidence recorded by the inquiry officer, both on behalf

of the prosecution, as well as on behalf of the defence, the inquiry officer has, inter alia, concluded as follows:-

From the statements of PWs and DWs evidence adduced during DE. Proceedings it has been proved that a call of quarrel on 03.09.00

at the residence of Sh.Ramesh Kumar at Salapur Khera was received at PS Kapashera and the same was entrusted to ASI Narain Singh

through CT. Ashok Kumar of PS Kapashera. ASI Narain Singh along with Ct. Devender Singh reached the spot at about 04:29 PM. They

both were on emergency duty. On the statement of Mr.Ramesh Kumar a FIR No.147/2000 u/s 452/445/427/323/34 IPC was registered at PS

Kapashera against Puran Chawla and ASI MS Patwal. The Hon'ble court of Sh SS Rathi MM vide its order dt.16.11.02 agreeing with

the report of IO accepted the cancellation report submitted by the IO. The above points clearly show that the entire incident was prima facie

stage managed and concocted.

Conclusion

As per evidence and statements of PWs and DWs the charges framed and served upon Inspr. Rajender Singh Saini, No.D-1/817 and SI

Manoj Kumar No.D-2762 stands proved.

9. Even the disciplinary authority in its order has duly considered all the relevant aspects and has, inter alia, observed as follows:-

I have carefully gone through the charge, evidence on record, statements given by different PWs, DWs, defence

statement/representation of both the defaulters Inspector and SI, findings of the EO, other material available on record and facts and

circumstances of the case. I have also heard both the defaulters Inspector and SI in OR where they mostly repeated their pleas already on

file. The pleas put forth by both the defaulters Inspector and SI in their representation has no force. The EO completed the DE within the

ambit of rules and examined 8 PWs and recorded their statements in the presence of the defaulters Inspector and SI. The EO has conducted

the enquiry within the ambit of rules and according to due procedure as specified in the Delhi Police (Punishment & Appeal) Rules, 1980.

All the relied upon documents were provided to the defaulter Inspector and SI. The role of EO in the instant DE is fair and there is no

violation of any rules/instructions. The charge leveled against both the defaulters Inspector and SI has been proved on the basis of

evidence and documentary evidence adduced during the DE proceedings. The EO examined DWs under the provision of Delhi Police

(Punishment & Appeal) Rules, 1980. The PWs examined in the DE have fully supported the prosecution version. After perusal of the enquiry

report, the appellate authority has ordered to conduct DE against both the defaulters as laid down in rule 15(2) of Delhi Police

(Punishment & Appeal) Rules, 1980, hence their claim No. (vi) is also not tenable. Pleas No. (vii to ix) are also not tenable being matter in

DE process. Plea No. (x) is baseless as the police officer is not duty bound to register false case knowingly which is the main article of the

charge. The court of Sh.S.S.Rathi, M.M., New Delhi has also commented while canceling the case that entire incident was prima-facie stage

managed and had been concocted. Plea No.(vi to xii) are also baseless allegations against the I.O. who investigated the case and finalized

as cancelled, which was duly accepted by the court too. The other pleas also do not have the direct bearing with the charge leveled and

proved against the defaulter Inspector and SI.

In view of the above in the overall circumstances, to meet the ends of justice, I, Deepak Mishra, Joint Commissioner of Police (Armed

Police), Delhi do hereby order to impose upon both the defaulters Inspr. Rajender Prasad Saini, No.D-I/817 and SI Manoj Kumar,

No.D/2762 a penalty of forfeiture of two years approved service temporarily for a period of two years entailing proportionate reduction in

their pay.â??

10. The order passed by the Appellate Authority, namely, the Commissioner of Police is also very well reasoned and clearly brings out the guilt of the

petitioner with the regard to the commission of misconduct by him. The relevant extract from the same reads as follows:

â??The call of quarrel in question was marked to ASI Narain Singh (Emergency Officer of PS Kapashera) and he had attended the call as

per record of PCR Van Z-87. But later on it was shown to be attended by SI Manoj Kumar vide DD No.15-A dated 3.9.2000 by interpolation

in the said DD. The fact is that SI Manoj Kumar was neither on emergency duty

on that day nor was the call of a sensitive nature. In the evening of that day when Shri Puran Chawla (the complainant) went to PS Kapashera to give a written complaint against Ramesh and Johari Gupta he was detained by SI Manoj Kumar. The complainant was threatened to withdrawn his earlier complaint filed against SHO/Insp. Rajinder Prashad Saini. The SHO (Appellant No.1) also assaulted on ASI M.S. Patwal who had come to P.S. to help Mr. Chawla. A case FIR No.147/2000 u/s 452/448/427/323/34 IPC was registered against Mr. Puran Chawla and ASI M.S. Patwal No.4441/D on false and bogus grounds. The investigation was marked to SI Manoj Kumar and he arrested both Mr. Puran Chawla and ASI M.S. Patwal in the said case.

Interpolation in DD No.15-A dated 3.9.2000 and false registration of case clearly indicates that entire incident stage managed and concocted. A bare glance at the photocopy of DD register reveals that marking of call to SI Manoj is interpolation as the fond of writing of the portion assigning DD entry to the appellant no.2 is much smaller and seems like alphabets when squared to fit in the DD entry after once the DD entry was completed and a line underneath it drawn. Further Ld. MM had passed observation in trial case FIR No.147/2000 of PS Kapashera that entire incident was prima facie stage managed and has been concocted. This clearly indicates that the case was wrongly registered; the facts were not as had been reported in the FIR and the arrest of Puran Chawla and M.S. Patwal were unwarranted and illegitimate.

The order of Ld. MM Shri S.S. Rathi dated 16.11.2002 has also set out in great detail the reasons for the case registered vide FIR No.147/2000 to be a false case.

I also find that a bare cursory perusal of photocopy of DD No.15-A dated 3.9.2000, PS Kapashera clearly shows that the entrustment of DD to SI Manoj was an interpolation/subsequent insertion after a line was drawn on completion of the initial DD entry as the letters appear compressed, smaller in size and squeezed to fit in the available less space.

The fact and circumstances of the case make it amply clear that false case registration was done on the directions of the Appellant No.1 that

too with his own interest and the appellant No.2 helped him. Both the appellants are equally responsible and have rightly been awarded the punishment. No infirmity has been committed either by the EO or the disciplinary authority in finalizing the departmental proceedings. None of the appellants pleas has any force. There is no reason to interfere in the punishment awarded. Under the circumstances, the appeals of the appellants are rejectedâ??.

11. The Tribunal has extensively dealt with all the submissions raised by the Petitioner and found no merit in them.

12. In view of the aforesaid, we find no merit in the present petition. The same is, accordingly, dismissed.

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13. In view of the writ petition having been dismissed, this application does not survive for adjudication and is dismissed as such.