
(2012) 01 DEL CK 0283

In the Delhi High Court

Case No : Writ Petition (C) 126 of 2012

Sub-Inspector Nafe Singh

APPELLANT

Vs

Commissioner of Police and Others

RESPONDENT

Date of Decision : 09-01-2012

Acts Referred:

Citation : (2012) 01 DEL CK 0283

Hon'ble Judges : V.K. Jain, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : Virender Goswami, Ms. Soni Singh and Mr. Sankalp Sharma, for the Appellant; Zubeda Begum, for the Respondent

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed

1. This Writ Petition is directed against the order dated 15.03.2011 passed by the Central Administrative Tribunal, Principal Bench, New Delhi, in OA No. 2850/2009. The petitioner had filed the said OA being aggrieved by the major penalty awarded to the petitioner of withholding of future increment for a period of two years with cumulative effect. The said major penalty was awarded consequent upon a departmental enquiry.

2. The case against the petitioner has been set out in paragraph 2 of the impugned order and the same reads as under:-

2. The applicant, Sub Inspector in Delhi Police, has been proceeded against in the departmental inquiry on the following summary of allegations:-

It has been alleged that SI Nafe Singh No.D/249 while posted at Police Station Defence Colony was working as Division Officer. In his area of division at South Extn.-Part II Market parking area was allotted to one Sh. Jain Kishan S/o. Sh. Sunder Das, R/o. A-172, New Loyal Pur Colony, Loni, Gaziabad by M.C.D. He appointed Sh. Manoj Kumar as manager of this parking to run it. SI Nafe Singh

started harassing his men and demanded money. They did not meet his demand. SI Nafe Singh allowed unauthorized persons namely Sh. Manish & others to facilitate vehicle parking unauthorizedly in the allotted area to Sh. Jai Kishan by M.C.D. by issuing plastic tokens to the vehicle owners causing loss to the authorized M.C.D. contractor. It shows malafide intention of the S.I. of using illegal means for his personal gains. The above act on the part of SI Nafe Singh amounts to gross misconduct & dereliction of his official duties for which he is liable to be dealt departmentally under the provision of Delhi Police (Punishment & Appeal) Rules.

3. Since the petitioner had denied these allegations, the Inquiry Officer proceeded with the enquiry and in the course of which five prosecution witnesses were examined. Thereafter, charges were framed against the petitioner on the same lines as indicated above. The petitioner also examined four witnesses in his defence. The Inquiry Officer returned a finding that the charge served upon the petitioner was true. The petitioner represented against the said enquiry report and the disciplinary authority after consideration of the said representation as well as other documents on record, concurred with the finding of the Inquiry Officer and imposed the penalty indicated above. An appeal was also preferred by the petitioner wherein the penalty was confirmed. Being aggrieved by the said course of events, the petitioner had filed the said OA before the Tribunal.

4. We have heard the learned counsel for the petitioner and have examined the impugned order as well as the other material on record which includes the statements made by the prosecution witnesses and the defence witnesses. In our view, the Tribunal has rightly concluded that this is not a case of no evidence or a case of perversity. Consequently, the Tribunal concluded that it could not re-appreciate the evidence as it was not within the scope of the powers of review that have been conferred upon it by virtue of the Administrative Tribunals Act, 1985.

5. The learned counsel for the petitioner had attempted to submit that this was a case of no evidence and had also placed reliance on the decision of a Division Bench of this Court in the case of Principal Secretary (Home) Government of NCT of Delhi v. Mukesh Kumar decided in Writ Petition (Civil) No.6297/2008 on 20.03.2009. However, we find that even a cursory look at the statement of PW-3 Mukesh Kumar would reveal that it is certainly not a case of no evidence as the allegations have been clearly supported by the said PW-3 Mukesh Kumar. We need not go into the details of evidence as that is not required of us sitting in this jurisdiction under Article 226 of the Constitution of India. We are not required to re-examine the evidence and to come to the finding as to whether the conclusion arrived at by the disciplinary authority or by the appellate authority is right or wrong. We are only required to examine as to whether the correct procedure has been followed and the principles of natural justice have been applied. The decision relied upon by the learned counsel for the petitioner will not apply to the facts of the present case inasmuch as in the present case, there is evidence and

it cannot be construed as being a case of no evidence. The said decision in the case of Principal Secretary (Home) Government of NCT of Delhi v. Mukesh Kumar (supra) was clearly a case of no evidence as would be apparent from the following observations in the said decision:-

Keeping the facts and circumstances of the case, submissions of the parties and legal submission, we find no discrepancy in the orders of the Tribunal. This is a case of "No Evidence" against the Respondent. Therefore, this is not a case where we can interfere with the order under Article 226 of the Constitution of India passed by the CAT in OA No.1638/2006 dated 02.04.2008.

6. In these circumstances, we see no infirmity in the impugned order of the Tribunal. Consequently, the writ petition is dismissed.