



2026:DHC:3621-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11368/2006 & CM APPL. 8696/2006

GOVT. OF N.C.T. OF DELHI & ORSPetitioners

Through: Mr. Himanshu Pathak, SPC
with ASI Mr. Devender Singh, Parvi Officer
Traffic

versus

CONST. CHET RAMRespondent

Through: Mr. Ankur Chhibber, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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27.04.2026

C.HARI SHANKAR, J.

1. The respondent was a constable with the Delhi Police.
2. A raid was conducted by the Office of the Public Redressal of Grievances in the Delhi Police at Punjabi Bagh. A summary of allegations dated 20 April 2001 was issued to the respondent, alleging that the respondent, along with ASI Prem Singh had engaged Dharmender Singh, a Home Guard Constable, to collect money on their behalf from Blue Line buses who desired to enter into the Punjabi Bagh Bus Terminal.
3. It is not in dispute that, though statements which were recorded



during Preliminary Enquiry¹ were inculpatory insofar as the respondents were concerned, the said witnesses, which included the driver, conductor and the home guard, during their depositions before the Inquiry Officer², resiled from their earlier statements. There was in fact no statement recorded before the IO which favoured the case of the petitioner.

4. The IO, nonetheless, found the respondent guilty of the charge against him on the basis of the statement of the home guard constable which was recorded during PE. The respondent appealed against the decision. The appeal was dismissed. The respondent was penalised with the punishment of forfeiture of three years' approved service permanently entailing reduction in their pay from ₹ 5000 to ₹ 4700 and ₹ 3725 to ₹ 3500 respectively.

5. Aggrieved thereby, the respondent approached the Central Administrative Tribunal³ by way of OA 2937/2004. By judgment dated 8 March 2006, the Tribunal set aside the punishment awarded to the respondent with consequential reliefs.

6. Aggrieved thereby, the Delhi Police has preferred the present writ petition before us.

7. We have heard Mr. Himanshu Pathak, learned SPC for the petitioner and Mr. Ankur Chhibber, learned Counsel for the respondent.

¹ "PE" hereinafter

² "IO" hereinafter

³ "Tribunal" hereinafter



8. Mr. Pathak submits that the Tribunal erred in interfering the well-reasoned decision of the IO, returned after considering the evidence. He submits that the statements of the witnesses on which the IO placed reliance were inculpatory against the respondent and that the mere fact that they may have been recorded during the PE could not rob them of all their evidentiary value. He further submits that the mere fact that the witnesses may have turned hostile during the inquiry proceedings could not be treated as a factor which rendered the case one of no evidence.

9. He also invokes well-known judicial decisions on the point that tribunals and courts should not interfere with the decisions of the disciplinary authorities, on the merits of the matter.

10. Mr. Chhibber, on the other hand, submits that the case is fully covered by the judgment of the Supreme Court in ***Kuldeep Singh v. Commissioner of Police***⁴ and specifically draws attention to paras 28, 40, 41 and 43 thereof, which read thus:

“28. Rule 16(3) is almost akin to Sections 32 and 33 of the Evidence Act. *Before the Rule can be invoked, the factors enumerated therein, namely, that the presence of the witness cannot be procured without undue delay, inconvenience or expense, have to be found to be existing as they constitute the “condition precedent” for the exercise of jurisdiction for this purpose. In the absence of these factors, the jurisdiction under Rule 16(3) cannot be exercised.*

40. To sum up, the charge against the appellant consisted of two components, namely:

(a) On 22-2-1990, Smt Meena Mishra paid Rs 1000 to

⁴ (1999) 2 SCC 10



the appellant for being paid to the three labourers.

(b) The appellant paid Rs 800 to the labourers and kept Rs 200 with himself.

41. Smt Meena Mishra, appearing as a witness for the Department, denied having made any payment to the appellant on that day. The labourers to whom the payment is said to have been made have not been produced at the domestic enquiry. Their so-called previous statement could not have been brought on record under Rule 16(3). As such, there was absolutely no evidence in support of the charge framed against the appellant and the entire findings recorded by the enquiry officer are vitiated by reason of the fact that they are not supported by any evidence on record and are wholly perverse.

43. For the reasons stated above, the appeals are allowed. The judgment and order dated 28-2-1997 passed by the Central Administrative Tribunal is set aside. The order dated 3-5-1991 passed by the Deputy Commissioner of Police by which the appellant was dismissed from service as also the order passed in appeal by the Additional Commissioner of Police are quashed and the respondents are directed to reinstate the appellant with all consequential benefits including all the arrears of pay up to date which shall be paid within three months from today. There will, however, be no order as to costs.”

(Emphasis supplied)

11. Mr. Pathak is candid in his submissions that the PWs on whose statements the petitioner placed reliance did not support the petitioner’s case during inquiry. However, he submits that the evidence recorded during PE, which was also relied upon in the statement of imputations of misconduct against the respondent, could not be ignored.

12. That submission cannot sustain in view of Rule 16(iii)⁵ of the

⁵16 (iii) If the accused police officer does not admit the misconduct, the Enquiry Officer shall proceed to record evidence in support of the accusation, as is available and necessary to support the charge. As far as possible the witnesses shall be examined direct and in the presence of the accused, who shall be given opportunity to take notes of their statements and cross-examine them. The Enquiry Officer is empowered,



Delhi Police (Punishment and Appeal) Rules, 1980⁶ which has also been accorded the imprimatur of the Supreme Court in *Kuldeep Singh*. The Supreme Court has clearly held that Rule 16(iii) of the DP (P&A) Rules, which is akin to Sections 32 and 33 of the Evidence Act, 1872, does not permit reliance on statements recorded during the PE unless there is a finding on facts that the presence of the witness could not be procured without undue delay, inconvenience or expense. Besides the fact that there is no such finding in the present case, the witnesses in question in fact appeared before the IO and did not stand by their statements recorded during the PE.

13. If the statements recorded during PE are eschewed from consideration, there is no evidence against the respondent.

14. It is also significant, in this context, that this is not a case in which there were any eye witnesses to any transaction in which the respondent was alleged to be involved. In fact, neither the respondent nor ASI Prem Singh were anywhere near the spot where the money was allegedly being collected. The allegation was that the Home Guard Constable Dharmender Singh was hired by them to collect money. Dharmender Singh, during his statement recorded before the IO, did not support this statement. He clearly stated that he was not

however, to bring on record the earlier statement of any witness whose presence cannot, in the opinion of such officer, be procured without undue delay, inconvenience or expense if he considers such statement necessary provided that it has been recorded and attested by a police officer superior in rank to the accused officer, or by a Magistrate and is either signed by the person making it or has been recorded by such officer during an investigation or a judicial enquiry or trial. The statements and documents so brought on record in the departmental proceedings shall also be read out to the accused officer and he shall be given an opportunity to take notes. Unsigned statements shall be brought on record only through recording the statements of the officer or Magistrate who had recorded the statement of the witnesses concerned. The accused shall be bound to answer any questions which the enquiry officer may deem fit to put to him with a view to elucidating the facts referred to in the statements of documents thus brought on record.

⁶ "DP (P&A) Rules" hereinafter



engaged by the respondent.

15. Moreover, even the driver and other witnesses whose statements were relied upon, stated that they were not called upon to make any payment for entry to the Punjabi Bagh Terminal.

16. We, therefore, concur with the Tribunal in its view that the case is one of no evidence.

17. Where a case is one of no evidence, it is well-settled that a court is not only empowered, but obligated, to interfere.

18. Incidentally, we may note that the impugned judgment also decides OA 2918/2004 filed by Prem Singh, and that WP (C) 11348/2006⁷, which was filed by the Union of India against the decision *qua* Prem Singh, was dismissed by this Court as he had expired in the interregnum and his legal heirs could not be impleaded.

19. Accordingly, no case is made out for us to disturb the judgment of the Tribunal which is upheld in its entirety. The writ petition is dismissed with no orders as to costs.

C.HARI SHANKAR, J

OM PRAKASH SHUKLA, J

APRIL 27, 2026/AR

⁷ Govt of NCT of Delhi v. ASI Prem Singh