APPELLATE CIVIL

Before Dulat, and Bishan Narain, JJ.

UNION OF INDIA,—*Appellant*

versus

PRITAM SINGH,—*Respondent.*

Regular First Appeal No. 104-D of 1954

1955

Sept, 28th

Police Act (V of 1861)—Section 7—Rule 16.24(ix)—Government of India Act 1935—Sections 240(2) and (3) and 243—Subordinate ranks of police force—Dismissal from service—Section 240(2) and 3, whether applicable to such ranks

(1) 99 Okla 150
(2) 22 L. Ed. 840
(3) 20 L. Ed. 272
(4) 17 L. Ed. 273

or Section 243—Standing Order No. 124 of 1949, issued by the Inspector-General of Police, Delhi on 22nd September, 1949—Whether a police rule under section 7 of the Police Act—Whether authorised—Even if authorised, effect of, on dismissals before its coming into force—Provisions of Police Rule 16.24(ix)—Whether mandatory.

Held, that in the case of subordinate ranks of the Police force in matters of dismissal, etc., before the Constitution of India came into force the provisions of section 243 and not the provisions of section 240(2) and (3) of the Government of India Act, 1935, apply and thus their cases are governed by section 7 of the Police Act and the rules framed thereunder.

Held further, that the Standing Order, Exhibit P. 12, cannot be considered to be a Police Rule under section 7 of the Police Act. Under that section only the Provincial Government could make a rule in 1949 and the Inspector-General of Police, Delhi, had no authority to do so. Even if it be considered to be a rule under section 7, it was made after the plaintiff had been dismissed. In either view of the matter this document is irrelevant. Even if it be assumed that the Standing Order was a rule made by the appellant under the authority conferred on it by section 243 of the 1935 Act, i.e., it was a rule made by the Provincial Government as contemplated in section 7 of the Police Act, it could not retrospectively affect the respondent's position.

Held also, that the provisions of Rule 16.24(ix) are mandatory. The rule has been framed under section 7 of the Police Act, and, therefore, this rule must be considered to be part of the statute and being prohibitory in form its provisions must be observed. It follows, therefore, that if there is a breach of the statutory provisions the aggrieved party is entitled to a suitable relief at the hands of the Court.

North West Frontier Province v. *Suraj Narain Anand* (1), and *Babu Ram* v. *The Dominion of India* (2), followed; *Venkata Rao* v. *Secretary of State* (3), *High Commissioner*

(1) A.I.R. 1949 P.C. 112
(2) (1952) 54 P.L.R. 247
(3) A.I.R. 1937 P.C. 31

for India and another v. *I. M. Lall* (1), *The State of Bihar* v. *Abdul Majid* (2), *P. Joseph John* v. *State of Travancore Cochin* (3), and *Naubat Rai* v. *Union of India* (4), relied upon.

Regular first appeal from the decree of the Court of the subordinate Judge, 1st Class, Delhi, dated 5th June, 1954.

BISHAMBAR DYAL and HANUMAN PARSHAD MATHUR, for Appellants.

GURBACHAN SINGH, for Respondent.

JUDGMENT

BISHAN NARAIN, J. This appeal has been filed by the Union of India against the decision of the Sub-ordinate Judge, 1st Class, Delhi, decreeing the suit of Pritam Singh that the order dated 2nd of August, 1949, passed by the Senior Superintendent of Police, Delhi, dismissing the plaintiff from the post of Head Constable was not passed in due course of law and was invalid and that the plaintiff is still an employee in the Police Force of the Delhi State and is entitled to salary and other allowances attaching to the post. Bishan Narain, J.

The plaintiff joined the Police Force of the Delhi State in 1939, as a Foot Constable. In 1946, he was promoted to the rank of Head Constable and on 21st of March, 1948, he was Moharrir Head Constable attached to Sabzi Mandi Police Station, Delhi. On that day he was suspended from service on the allegation that he had accepted a sum of Rs. 400 in currency notes of Rs. 100 each from Harnam Singh and Shiv Dev Singh as illegal gratification for not arresting Sant Singh brother of Harnam Singh and Hira Singh.

(1) A.I.R. 1948 P.C. 121
(2) A.I.R. 1954 S.C. 245
(3) A.I.R. 1955 S.C. 160
(4) A.I.R. 1953 Punjab 137

Union of India v. Pritam Singh

Bishan Narain, J.

another relation of Harnam Singh. He was prosecuted. He pleaded not guilty and his defence was that these notes were quietly put into his trousers' pocket by Harnam Singh or Shiv Dev Singh without his knowledge in the dark while they were talking to him and that he was ignorant of the same till the notes were recovered by the Deputy Superintendent of Police, Delhi. The trial Magistrate convicted him under section 161, Indian Penal Code, and sentenced him to one year's rigorous imprisonment by order dated 29th of June, 1948, but on appeal the Sessions Judge, Delhi, set aside his conviction and acquitted him by order dated 17th of August, 1948. Consequently, the plaintiff was reinstated on 29th of August, 1948, with effect from 21st of March, 1948, by Shri A. N. Bhatia, Senior Superintendent of Police, Delhi. However, by order dated 15th of January, 1949, the Inspector-General of Police, Delhi, directed a departmental enquiry against the plaintiff for having been so careless as to enable members of the public, whose relations he had to arrest, to put currency notes in his pocket. The enquiry was started by Shri Jiwan Dass, Adjutant, Delhi Armed Police, Delhi, on 23rd of February, 1949, under orders of the Senior Superintendent of Police, Delhi, who was admittedly the person in authority to inflict punishment on the plaintiff. This enquiring officer forwarded his report to the Senior Superintendent of Police, Delhi, through the Superintendent of Police, Delhi. The Senior Superintendent of Police, Delhi, came to the conclusion that the enquiring officer had totally ignored the provisions of rule 16.3(1) as he had framed the charge of corruption and bribery against Pritam Singh and, therefore, the enquiry held by him was contrary to Police Rules. Thereafter Shri Ajaib Singh, Superintendent of Police, started the departmental enquiry by reading and explaining the summary of misconduct relating to his negligence

to the plaintiff on 6th of June, 1949. Pritam Singh was examined on 7th of June, 1949, and charge was framed against him on the same day. On 5th of July, 1949, the plaintiff applied for examination of the Sessions Judge who had acquitted him but he was not summoned in view of the fact that his judgment was already on the record and also because he had not witnessed the occurrence which was the subject-matter of the charge. The enquiring officer gave his report on 7th of July, 1949, with the recommendation that no action need be taken against the Head Constable. Shri Jia Ram, Senior Superintendent of Police, Delhi, however, did not accept this recommendation and found Pritam Singh to be so careless and negligent as not to be fit to be retained in the Police Force and decided to dismiss him (*vide* his order dated 16th of July, 1949, Exhibit P. 16) and on 23rd of July, 1949, ordered that Pritam Singh should be put up before him. On 25th of July, 1949, Shri Jia Ram asked the plaintiff to explain why he should not be dismissed and after getting his explanation he ordered on 2nd of August, 1949, that the plaintiff be dismissed. Pritam Singh appealed against this order to the Inspector-General of Police, Delhi, who passed a detailed order and dismissed the appeal on 17th of October, 1949. Thereafter Pritam Singh after giving notice under section 80, Civil Procedure Code, filed the present suit on 14th of December, 1951, for a declaration that his dismissal was illegal and it is this suit that has been decided in his favour and against which the present appeal is directed.

The plaintiff's case in the plaint was after giving the above mentioned facts that his dismissal was illegal on the grounds—

(1) that he could not be dismissed on a charge on the same facts for which he had been

Union of India
v.
Pritam Singh

Bishan Narain, J.

acquitted and the same could not be circumvented by framing another charge on the same facts and, therefore, the enquiry and the dismissal was in contravention of the Police Rule 16.3(1) ;

(2) that he was not given full opportunity to show cause against the proposed dismissal as he was not served with a notice nor with a copy of the finding of the enquiring officer as required under Police Rule 16.24(*ix*) read with the Standing Order No. 124 of 1949 ; and

(3) that Shri Jia Ram, Senior Superintendent of Police, could not set aside the order of reinstatement passed by his predecessor in office who was Shri A. N. Bhatia unless fresh charge based on fresh facts had been alleged and proved against him.

The Union of India contested the suit and pleaded that the plaintiff's dismissal was in accordance with law. The trial Court decided all the points raised by the plaintiff against him excepting the ground that he was not given full opportunity to show cause against his proposed dismissal. The trial Court held that the mandatory provisions of section 240(3) of the Government of India Act, 1935, had not been complied with by Shri Jia Ram. In the course of arguments while the appellants counsel argued this matter, the learned counsel for the respondent challenged the findings on other issues as well and thus opened the entire case before this Court.

For the purposes of this appeal I shall assume that the Police Rules on which the parties' counsel have placed reliance before us have been made under section 7 of the Police Act (Act V of 1861).

I shall first dispose of the issues decided by the trial Court against the plaintiff. The first issue reads—

"(1) Did the evidence cited in the criminal case not disclose facts unconnected with the charge before the Court which justify departmental proceedings on a different charge within the meaning of Police Rule 16.3(*d*) ?"

Rule 16.3(1)(*d*) reads—

"When a Police Officer has been tried and acquitted by a Criminal Court he shall not be punished departmentally on same charge or on a different charge based upon the evidence cited in the criminal case, whether actually led or not, unless the evidence cited in the criminal case discloses facts unconnected with the charge before the Court which justify departmental proceedings on a different charge."

In the present case the charge in the criminal proceedings was that Pritam Singh had accepted bribe of Rs. 400 from two persons and that this amount was recovered from the trousers' pocket of the accused. The accused had pleaded and stated that these persons whose relations he had been ordered to arrest stood near him and surreptitiously and without his knowledge had put four currency notes of Rs. 100 each in his trousers' pocket. The statement of the accused in the criminal case disclosed facts unconnected with the charge before the Criminal Court and the charge of negligence was disclosed by the statement of the accused. He was, however, charged departmentally for negligence and this charge had no connection with the charge of bribery. This charge is based on facts brought to light and discovered in the evidence cited in the criminal case. I am, therefore, of the opinion

Union of India v. Pritam Singh

that the decision of the trial Court against the plaintiff on this point is correct and cannot be interfered with in appeal.

Bishan Narain, J.

The next issue relates to the ground that after the enquiry by Shri Jiwan Dass, no valid second enquiry could take place. This plea was not specifically taken in the plaint but is the subject-matter of issue No. 3 which, however, was not pressed before the trial Court and obviously has no substance. The enquiry held by Jiwan Dass was on a charge of bribery and corruption which was in contravention of Police Rule 16.3 (1). An invalid enquiry cannot make invalid a subsequent enquiry which is held in accordance with law. The next point raised was that after the order or reinstatement by Shri A. N. Bhatia, consequent upon the plaintiff's acquittal by the Sessions Judge, Delhi, no departmental enquiry could be held on a charge of carelessness and negligence, and no order of dismissal could be passed against him. It is, however, clear that the departmental enquiry was held on a charge of carelessness and negligence which was independent of the criminal trial and the order of reinstatement passed by Shri A. N. Bhatia had nothing to do with the charge which was the subject-matter of the departmental enquiry. I, therefore, see no force in this point either and reject it.

Now, I shall deal with the main point involved in this appeal and that is whether the plaintiff got full opportunity to show cause to the Senior Superintendent of Police, Delhi, against the proposed action of his dismissal. The facts relevant for the decision of this question are that at the instance of the Inspector-General of Police departmental enquiry was held against the plaintiff by Shri Ajaib Singh, Superintendent of Police, who reported on 7th of July, 1949, recommending that no action be taken against him.

Shri Jia Ram who was empowered to dismiss the plaintiff as he had been given the power of Deputy Inspector-General under section 7 of the Police Act decided by order dated 16th of July, 1949, to dismiss the plaintiff. Shri Jia Ram ordered on 23rd of July, 1949, that the plaintiff should appear before him and on the 25th of July, 1949, the plaintiff was given an opportunity to show cause why he should not be dismissed and on 2nd of August, 1949, Shri Jia Ram dismissed him. The plaintiff's appeal was dismissed by the Inspector-General of Police, Delhi.

Now, all these proceedings took place before the Constitution of India came into force and, therefore, we are concerned only with the provisions of Government of India Act, 1935, and the Police Act in the present case. Section 240 sub-clauses (2) and (3) of the Government of India Act, 1935, lay down the conditions which must be observed before a person holding a civil post can be dismissed or reduced in rank. Section 243 of this Act, however, lays down that this provision shall not be applicable to "the conditions of service of the subordinate ranks of the various police forces in India" and these ranks will be governed by the conditions of service laid down by or under the Acts relating to those services. There is no doubt that section 240 clauses (2) and (3) relate to conditions of service and it is not in dispute that the plaintiff held a subordinate rank in the Delhi Police Force. It has been authoritatively laid down in *North West Frontier Province* v. *Suraj Narain Anand* (1), that in such a case provisions of section 243 of the Government of India Act, 1935, apply and not the provisions of section 240 sub-clauses (2) and (3) of the said Act. A similar view was also taken by a Division Bench of this Court in *Babu Ram* v. *The Dominion of India* (2). It follows, therefore, that

(1) A.I.R. 1949 P.C. 112
(2) (1952) 54 P.L.R. 247

Union of India v. Pritam Singh

Bishan Narain, J.

the present suit is governed by the provisions of section 7 of the Police Act and the rules framed thereunder and not on the mandatory provisions of section 240 sub-clause (3) of the Government of India Act. The Police Rule which is relevant for the above purposes is Police Rule 16.24(*ix*).

In the trial Court the respondent had relied on a document described as "Standing Order No. 124 of 1949" (Exhibit P. 12) issued by the Inspector-General of Police, Delhi, on 22nd of September, 1949, to all gazetted officers in which the old practice of "officers competent to pass an order on a departmental file to summon the accused officer before him and ask him to show cause why a particular punishment be not inflicted on him" was noticed and it was laid down that—

> "before an officer is dismissed it shall have to be essential for all officers competent to pass an order of dismissal or reduction to give the accused officer, a copy of the finding and to ask him to show cause in writing within a stipulated period which will not exceed one week with a minimum of 48 hours why the punishment proposed should not be awarded. On receipt of the accused officer's reply the officer competent to pass the order may proceed to deal with the departmental file and issue orders on the merits of the case."

The trial Court held that assuming that this document was issued after the dismissal of the plaintiff it did not modify the Police Rule 16.24(*ix*) and merely explains it. It also came to the conclusion that this rule is based on the mandatory provisions of section 240 sub-clause (3) of the 1935 Act and as the mandatory provisions of the 1935 Act were not complied

with, the order of dismissal was illegal. The learned counsel for the respondent has pressed this view of the matter before us also. I regret I am unable to accept this reasoning and conclusion as correct. The Standing Order, Exhibit P. 12, cannot be considered to be a Police Rule under section 7 of the Police Act. Under that section only the Provincial Government could make a rule in 1949 and the order of the Inspector-General of Police, Delhi, had no authority to do so. Even if it be considered to be a rule under section 7 it was made after the plaintiff had been dismissed. In either view of the matter this document appears to me to be irrelevant. It may be stated here that the plaintiff has admitted in the witness-box in his cross-examination that this order was made after he had been dismissed. Even if it be assumed that the Standing Order was a rule made by the appellant under the authority conferred on it by section 243 of the 1935 Act, i.e., it was a rule made by the Provincial Government as contemplated in section 7 of the Police Act, it could not retrospectively affect the respondent's position as was held in *North West Frontier Province* v. *Suraj Narain Anand* (1). For all these reasons I am of the opinion that document, Exhibit P. 12, has no effect on the present case and it must be ignored in deciding the matter. It will be noticed that I have already held that section 240 subclause (3) has no application to this case and with this finding that the document, Exhibit P. 12, is irrelevant in the present case, the basis of the judgment of the trial Court disappears.

The next question that requires decision is whether the provisions of Police Rule 16.24(*ix*) are mandatory or not and must be complied with before the order of dismissal is passed. It was argued on

(1) A.I.R. 1949 P.C. 112

Union of India v. Pritam Singh

Bishan Narain, J.

behalf of the Union of India that while it was necessary to give sufficient opportunity to the plaintiff to show cause against the proposed punishment, it was not incumbent on the Government to observe the procedure laid down in the rules for this purpose. In support of this argument reliance has been placed on *Venkata Rao* v. *Secretary of State* (1), and other cases in which it was held that breach of rules does not furnish any cause of action to the plaintiff. In *Venkata Rao's case* (1), their Lordships of the Privy Council held that the provisions of section 96-B of the Government of India Act, 1919, contain a statutory and solemn assurance that the service though at pleasure will be regulated by rules. These rules were, however, held to be permissive and it was held that they did not lay down contractual and statutory obligation and the non-observance of these rules would not give a right of action for wrongful dismissal in view of section 96-B(5) of the 1919 Act. Referring to this case and contrasting the language used in section 96-B of the 1919 Act and section 240 of the Government of India Act, 1935, their Lordships of the Privy Council in *High Commissioner for India and another* v. *I. M. Lall* (2), laid down that the provision as to a reasonable opportunity of showing cause against the action proposed does not any longer rest on rules but has become a statutory provision under section 240 sub-clause (3) of the 1935 Act and it being prohibitory in form its observance is mandatory. In the present case section 240 of the 1935 Act has no application in view of section 243 of the same Act and the plaintiff's conditions of service are laid down in the Police Act (Act No. V of 1861). Section 7 of this Act reads—

> "Subject to such rules as the Provincial Government may from time to time make

(1) A.I.R. 1937 P.C. 31
(2) A.I.R. 1948 P.C. 121

under this Act, the Inspector-General * * * * may at any time dismiss, suspend or reduce any police officer of the subordinate ranks whom they shall think remiss or negligent in the discharge of his duty, or unfit for the same * *."

Under this section the Provincial Government has framed Police Rule 16.24(*ix*) and, therefore, this rule must be considered to be part of the statute and being prohibitory in form its provisions must be observed. It follows, therefore, that if there is a breach of the statutory provisions the aggrieved party is entitled to a suitable relief at the hands of the Court as was held by their Lordships of the Supreme Court in *The State of Bihar* v. *Abdul Majid* (1). In this view of the matter the argument of Shri Bishambar Dayal, the learned counsel appearing for the Union of India, must be rejected and it must be held that the terms of Police Rule 16.24(*ix*) must be observed before the plaintiff could be legally dismissed.

The only point that now remains to be decided is whether, in fact, the provisions of this rule were observed or not. The relevant portion of this rule reads—

> "No order of dismissal or reduction in rank shall be passed by an officer empowered to dismiss a police officer or reduce him in rank until that officer has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him, provided that this shall not apply. * * *
>
> Before an order of dismissal or reduction in rank is passed the officer to be punished

(1) A.I.R. 1954 S.C. 245

Union of India
v.
Pritam Singh

Bishan Narain, J.

shall be produced before the officer empowered to punish him, and shall be informed of the charges proved against him, and called upon to show cause why an order of dismissal or reduction in rank should not be passed. Any representation that he may make shall be recorded, shall form part of the record of the case, and shall be taken in consideration by the officer empowered to punish him before the final order is passed. * * * *".

Thus this rule after providing for sufficient opportunity proceeds to lay down that subject to certain exceptions the final order should not be passed till the person to be punished is produced before the person empowered to punish him and is informed of the charges framed against him and has been called upon to show cause against the proposed action. This rule further provides that any representation made to the person empowered to punish him shall form part of the case and must be taken into consideration before the final order is passed. Now, their Lordships of the Privy Council in *High Commissioner for India and another* v. *I. M. Lall* (1), have authoritatively laid down the nature of opportunity that is to be given to the accused person under section 240 sub-clause (3) of the 1935 Act and this has been approved by their Lordships of the Supreme Court in *P. Joseph John* v. *State of Travancore Cochin* (2). These cases lay down that the real purpose of this provision is that the person to be punished must know that the punishment is proposed for certain acts and omissions on his part and must be told the grounds on which it is proposed to take such action and must be given reasonable opportunity of showing cause against it.

(1) A.I.R. 1948 P.C 121
(2) A.I.R. 1955 S.C. 160

It is further laid down in these cases that whether in a particular case such an opportunity has been given or not must depend on the facts and circumstances of that particular case. It will be noticed that the rule under consideration in this case is substantially in accord with the decision of their Lordships of the Privy Council in I. M. Lall's case.

In the present case a detailed enquiry was held by Shri Ajaib Singh, Superintendent of Police, under the orders of the Senior Superintendent of Police, Delhi, and no objection has been raised by the plaintiff nor has it been suggested by him that he was not given full opportunity to defend himself in these proceedings. In spite of the report of this enquiry officer Shri Jia Ram decided to dismiss the plaintiff by order dated 16th of July, 1949, Exhibit P. 16, and a week later ordered the plaintiff to be produced before him. On 25th of July, 1949, the plaintiff appeared before Shri Jia Ram and the note of the proceedings of that date reads—

> "You Head Constable Pritam Singh are herewith asked to explain why you should not be dismissed. Whatever you have to say will be fully considered before any orders are passed.
>
> I have not committed any crime. My case in Court was acquitted honourably. I was reinstated by S. S. P. Mr. Bhatia. The departmental action taken is not according to rules."

In the plaint it is not the plaintiff's case that the nature of opportunity provided in this rule was not given to him. His case was that the procedure as laid down in the Standing Order No. 124 of 1949 (Exhibit P. 12) was not observed but I have already

Union of India v. Pritam Singh

Bishan Narain, J.

held that that particular order was not applicable to the plaintiff. It is clear from the proceedings that the plaintiff had been produced before Shri Jia Ram and the representation that he had made forms part of the record. The final order dated 2nd of August, 1949, shows that his representation was duly taken into consideration. All that is not clear, however, from the proceedings is whether Shri Jia Ram informed the plaintiff of the charge proved against him or not. The note of the proceedings does not purport to have been recorded as proceedings in a judicial case and does not bear the signatures of Pritam Singh, and, therefore, it is a matter of evidence whether the necessary information was given to the plaintiff or not. Now, there is no doubt that the Senior Superintendent of Police took proceedings under a statutory rule and it must be presumed that the proceedings taken by him were legal and in accordance with law. There can be no presumption that proceedings under this rule were taken but once it is admitted or proved that such proceedings were, in fact, taken, then it must be presumed, unless otherwise alleged and proved, that they were taken in accordance with law. In the present case no such allegation was made in the plaint and if it had been made it was open to the Government to produce any further evidence on the point as was available to it. It was argued that once the validity of the proceedings had been challenged it is the duty of the Government to prove that all the necessary steps under the statute or under the statutory rule were taken. There is no force in this argument and it was so held by a Division Bench of this Court in *Babu Ram* v. *The Dominion of India* (1). In any case the plaintiff in the present suit had challenged the validity of the proceedings on certain grounds but this ground was not taken and, therefore, it was no part of the defendant's duty to produce

(1) (1952) 54 P.L.R. 247

evidence in proof of the fact that the charge proved against the plaintiff was, in fact, communicated to him on 25th of July, 1949. The plaintiff specifically pleaded in the plaint that the rule was not complied with " as he was not furnished with a notice, nor with a copy of the finding of the Enquiry Officer as required under the provisions of Police Rule 16.24(*ix*) as reconstructed " by various letters mentioned in the plaint. This plea cannot be said to include the plea that the plaintiff was not informed of the charge proved against him and in my opinion, in fact, it excludes any such plea. In this connection it must not be forgotten that Pritam Singh from the beginning knew that there was only one charge against him based on a single incident which was disclosed and brought to light by the defence taken by him in the criminal proceedings. Moreover, this ground was not urged by the plaintiff in his appeal to the Inspector-General of Police, Delhi, as is clear from his order dismissing the appeal.

It was then finally argued that as the proceedings dated 25th of July, 1949, stood he was not given sufficient information to enable him to make a representation, nor was sufficient time granted to him to do so. It was urged that without this information it was not possible for the plaintiff to make any representation. The plaintiff, however, never made this complaint to Shri Jia Ram on 25th of July, 1949, but instead made a representation which covers all the pleas that he took before the Enquiry Officer and in the present suit. Pritam Singh did not even ask for grant of further time for the purpose of making a representation and, therefore, it must be taken that he did not desire or require any adjournment for this purpose. Further, the plaintiff never pleaded this case in the plaint nor was any issue framed to cover this point. It is significant that these objections were not raised

Union of India v. Pritam Singh

Bishan Narain, J.

by the plaintiff in his appeal to the Inspector-General of Police, Delhi.

In a similar case an opportunity to show cause against the action proposed was given in these words—

> "It is provisionally proposed to remove you from Government service * * * *. An opportunity is given to you to show cause, if any, against the proposed action."

and the Division Bench of this Court held in *Naubat Rai* v. *Union of India* (1), that sufficient opportunity as required by Article 311(2) of the Constitution was given to the petitioner. I am, therefore, of the opinion that the plaintiff was given sufficient opportunity under Police Rule 16.24(*ix*) in the circumstances of the present case.

For all these reasons I am of the opinion that the order of dismissal passed against Pritam Singh plaintiff was validly made with the result that this appeal must be accepted and plaintiff's suit dismissed. In the circumstances of the case, however, I leave the parties to bear their own costs throughout.

Dulat, J. DULAT, J. I agree.