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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA NO. 1163/2002

New Delhi, this the 29th day of September, 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI R.K. UPADHYAYA, MEMBER (A)

S.I. Bega Ram
S/o Shri Pokhar Mal
R/o C-39-B, Gali No. 9
Sadh Nagar, Palam
New Delhi.

... Applicant

(By Shri A.K. Trivedi, Advocate)

vs.

1. Govt. of N.C.T. of Delhi
Through its Chief Secretary
Old Secretariat, Delhi.
2. The Commissioner of Police
Delhi Police Headquarters
I.P. Estate, I.T.O. New Delhi.
3. The Joint Commissioner of Police
Delhi Police, Southern Range
New Delhi.
4. The Deputy Commissioner of Police
Delhi Police, South District
New Delhi.

(By Mrs. Jasmine Ahmed, Advocate) ... Respondents

O R D E R

Justice V.S. Aggarwal:

Applicant (Sub Inspector Bega Ram) seeks quashing of the impugned orders dated 30.10.2000 and 26.12.2001 imposing a penalty of withholding his next increment for a period of one year with cumulative effect.

2. Some of the relevant facts are that the applicant who joined the Delhi Police in January

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1982 as Constable in due course had been promoted as Sub Inspector. He had been entrusted with the investigation to be conducted from Jalandhar regarding the medical verification of one Mrs. Manjit Kaur. He had discussed the matter a number of times and submitted an application dated 13.7.1999 to the Assistant Commissioner of Police Kalka Sub Division for permission to proceed to Jalandhar. The application was forwarded and permission was granted and after coming back from Jalandhar, he submitted the report. Despite that, a departmental enquiry had been initiated against the applicant. The charge which is like the summary of allegations framed against the applicant reads:-

"I, Prem Nath, ACP/EO hereby charge you S.I. Bega Ram No.D/3535 in the D.E. initiated against you vide order No.8820-40/SD (P-II) dated 17.9.99 for gross negligence carelessness in investigation of cases and dereliction in the discharge of your official duty as well as disobeying the orders of SHO/Kalkaji while posted at P.S.Kalkaji. A medical certificate of Mrs. Manjit Kaur was received in PS Kalkaji from the Hon'ble High Court of Delhi for verification from Jalandhar (Punjab). The said certificate and other papers were marked to you for necessary action. SHO Kalkaji while giving the papers had directed you to go to Jalandhar 3-4 days before the date of hearing i.e. 22.7.99. It was reported by you that you had a case vide FIR No.361/98 u/s 365 IPC and you had to go to Jalandhar for investigation of the said case. SHO/ Kalkaji had briefed you that you must discuss the case first with him alongwith previous IO's and then proceed to Jalandhar. You left the police station on 15.7.99 without discussing the case with SHO and came back on 22.7.99 i.e. after a gap of about 7 days. SHO/Kalkaji on scrutiny of case

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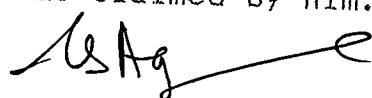
file came to know that no investigation in the said case was conducted by you in Jalandhar. No case diary was submitted by you to this effect whereas you should have submitted your case diaries on your arrival at police station to SHO/Kalkaji. It is further alleged that you had 16 cases pending investigation with you as on 22.7.99 and on scrutiny of case files it was found that despite giving directions not even a single case had been investigated properly. Despite of giving directions you had not submitted case diaries in various cases. No case diary was submitted by you in the following cases as on 22.7.99.

1. FIR No.225 u/s 380 IPC
2. FIR No.346/99 u/s 302 IPC
3. FIR No.348/99 u/s 379 IPC
4. FIR No.443/99 u/s 420 IPC
5. FIR No. 451/99 u/s 325/34 IPC

The above act on the part of you, SI Bega Ram No.D/3535 is punishable under the provision envisaged in Delhi Police (Punishment & Appeal) Rules, 1980."

The findings of the inquiry officer were that the charge had been proved. They were accepted by the disciplinary authority, namely the Deputy Commissioner of Police South Distt. who imposed the following penalty holding that the applicant had completed the investigation only after 22.7.1999 and further that the applicant disposed of the case FIR No.861/99 punishable under Section 365 of the Indian Penal Code within a short period which was not tenable and did not discuss the matter before leaving for Jalandhar with the officer incharge of the Police Station. The findings with the penalty are:-

" In all these cases he has completed the investigation only after 22.7.99 and not prior to this as claimed by him. As regards the plea



taken by him that he had disposed off the case FIR No.861/99 u/s 365 IPC PS. Kalkaji within short period is not tenable because PW-2 in reply to Q.No.2 has stated that this case was sent as untraced on 6.10.99. But the question in this regard is that he (defaulter S.I.) was directed by SHO/Kalkaji to discuss this case before proceeding to Jalandhar (Punjab) for investigation of the said case along with previous I.Os of the case but he failed to discuss the case with PW-3 SHO/Kalkaji and disobeyed his orders. Hence, I am not convinced with the pleas advanced by the defaulter S.I.

Keeping in view the over all facts and circumstances of the case, and agreeing with the findings of the E.O. I hereby order to withhold next increment of SI Bega Ram, No.D/3535 for a period of two years with cumulative effect."

The appeal filed by the applicant had been dismissed. Resultantly, the present application has been filed.

3. The application has been contested reiterating the assertions made against the applicant which we have already reproduced above.

4. As is apparent from the charge that had been framed, the assertions against the applicant were that while he was to proceed to Jalandhar, he had been directed by the officer incharge of the Police Station Kalkaji to discuss the case before proceeding to Jalandhar for investigation, but he did not do so. The plea of the applicant is that he had taken permission of the Assistant Commissioner of Police before going to Jalandhar and that the same had been granted.

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5. Mere obtaining the permission would not put an end to the assertions against the applicant.

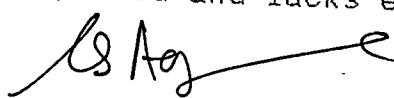
When he was directed by his senior colleague/officer to discuss the matter before proceeding to Jalandhar, he was duty-bound to discuss the matter. The allegation against him is that he disobeyed the order. The disciplinary authority had accepted this version of the department. We find no reason to interfere because the findings cannot be described to be erroneous.

6. In addition to that, there were further assertions against the applicant with respect to certain cases which are stated to be not being investigated by him. The applicant has challenged the findings on facts. To verify the same, we had called for the Crime Register of Police Station Kalkaji with respect to the five First Information Reports regarding which it is stated that the applicant did not investigate the matter. It reveals that in First Information Report No.225/1999 even before the relevant date i.e.22.7.1999, the accused had been challaned. In First Information Report No.346/1999, before the said date referred to above, viscera report was being awaited. In First Information Report No.348/1999 also, the applicant reported even before 22.7.1999 that search had been made but there was no clue pertaining to the offence

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punishable under Section 379 of the Indian Penal Code. In First Information Report No.443/1999, the record reveals that a search was being made, but the accused was not being traced. He was only arrested on 12.9.1999 and lastly in First Information Report No.451/1999 with respect to offences punishable under Section 325/341 of the Indian Penal Code, the accused had been arrested at the behest of the applicant a few days after 22.7.1999. The accused person therein had been challaned.

7. The learned counsel for the respondents states that all these case diaries had been filled up subsequently as is apparent from a perusal of the record. We have no hesitation in not acting upon the same because it is not the case of the respondents that what had been filled up in the case diaries is incorrect. If what was stated in the Crime Register would have been incorrect, the things would be different. Once the facts alleged and mentioned in the Crime Register are correct, it must follow that the applicant was investigating the matter and it cannot be in the facts and circumstances of the case be termed that the case diaries were not submitted because in some of the cases even challans had been put in the court. This part of the charge, therefore, cannot be held to have been proved and lacks evidence.

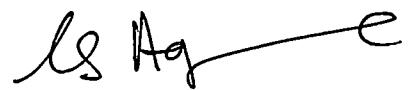


8. For these reasons, we allow the application only in part. Since a part of the charge is proved, we quash the impugned orders and direct that keeping in view the findings, the disciplinary authority may pass a fresh order taking stock of the totality of the facts and circumstances. No costs.



(R.K. Upadhyaya)
Member (A)

/sns/



(V.S. Aggarwal)
Chairman