

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2673/2001

New Delhi this the 22nd day of April, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER (A)

Hari Darshan
(D-1/65)PCR
S/o Shri Ran Singh
R/o 805, Timarpur
Delhi-110054.

...Applicant

(By Shri Shyam Babu, Advocate)

vs.

1. Govt.of NCT Delhi
through its Chief Secretary
Delhi Sachivalaya, I.P.Estate
New Delhi.
2. Commissioner of Police
Delhi, Police Headquarters
I.P.Estate
New Delhi.
3. Joint Commissioner of Police
(Vigilance)
Police Headquarters,
I.P. Estate,
New Delhi.
4. Joint Commissioner of Police
(Armed Police)
Police Headquarters
I.P.Estate
New Delhi.
5. Dy.Commissioner of Police
(Vigilance)
Police Headquarters,
I.P. Estate,
New Delhi. Respondents.

(By Shri Ajesh Luthra, Advocate)

O R D E R (ORAL)

Justice V.S.Aggarwal:-

Applicant (Hari Darshan) is an Inspector in

V.S. Aggarwal

Delhi Police. On 21.1.1999, he had been served with the following facts pertaining to the departmental proceedings that were to be initiated against him:-

" It is alleged against Insp. Hari Darshan, No.D-I/65, SHO/Ashok Vihar and Insp. Ravinder Kumar, No.D-I/835, Addl.SHO/Ashok Vihar that on the night of 30/31.3.98, they conducted a raid at H.No.2112/1-A, Prem Nagar, Delhi in the area of P.S.Patel Nagar at 4.15 AM and recovered illicit liquor. Both Insp. Hari Darshan D-I/65 and Insp. Ravinder Kumar, D-I/835 were required to seize the recovered illicit liquor through seizure memo and also to hand over the same to Addl.SHO/Patel Nagar and SI Shatrughan of P.S. Patel Nagar, but they showed the recovered illicit liquor on the spot. Both Insp. Hari Darshan and Insp.Ravinder Kumar, failed to take lawful action and did not ensure the registration of an Excise Act case at P.S. Patel Nagar. They also failed to check malafide intention of ASI Raghbir Singh, IO of case FIR No.152/98 u/s 61/1/14 Excise Act, P.S.Ashok Vihar in releasing the accused Dharma Ram on the surety of Gopal Taneja, accused arrested on the same day in other case FIR No.151/98 u/s 61/1/14 Excise Act, P.S.Ashok Vihar which shows the callous attitude towards duty.

The above act on the part of Insp. Hari Darshan and Insp. Ravinder Kumar amounts to gross negligence, carelessness and dereliction in discharge of their official duties which renders them liable to be dealt with departmentally under Delhi Police (Punishment & Appeal) Rules 1980.

Therefore, I Suresh Roy, Jt.Commissioner of Police Northern Range, hereby order that Insp. Hari Darshan, D-I/65 and Insp.Ravinder Kumar, D-I/835 may be dealt with departmentally by Addl.DCP-II/North-West Distt. on day to day basis and findings be submitted to the undersigned expeditiously."

In pursuance of the departmental proceedings that were initiated against the applicant, the inquiry officer found all the charges levelled against him

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to have been proved. The Joint Commissioner of Police Northern Range imposed a penalty on the applicant vide order dated 18.4.2000 of forfeiture of one year's approved service temporarily for a period of one year by entailing reduction in his pay from Rs.8,300/-p.m. to Rs.8,100/- p.m. with immediate effect in the time scale of his pay. He was also denied increments for the period. It is not in dispute that during the pendency of the present application, OA No.2312/2001 filed by the applicant challenging the penalty awarded in pursuance of the departmental proceedings has since been dismissed on 8.4.2003, therefore, the said controversy cannot be agitated before this Bench.

2. The grievance of the applicant is primarily confined to the assertion that his name had been kept on the secret list of persons of doubtful integrity and that the said order is illegal which should be quashed.

3. The assertions regarding as to why his name had been placed on the secret list of persons of doubtful integrity read:-

You, Insp. Hari Darshan No.D-1/65 are hereby informed that with the approval of DCP/Vigilance, Delhi your name has been brought on the Secret list of doubtful integrity w.e.f.4.2.99 v/o No.13257-58/Vig.CA dated 6.4.99 on the allegation that on the night of 30/31.3.98 you alongwith

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Inspr. Ravinder Kumar, D-I/835, conducted a raid at H.No.2112/I-A, Prem Nagar, Delhi in the area of PS Patel Nagar at 4.15 AM and recovered illicit liquor. Both of you were required to seize the recovered illicit liquor on the spot but you failed to take lawful action and did not ensure the registration of an excise act case at PS Patel Nagar. You also failed to check the malafide intention of ASI Raghbir Singh and I.O of case FIR No. 152/98 u/s 61/1/14 Ex.Act Ashok Vihar in releasing the accused Dharma Ram on the surety of Gopal Taneja, accused arrested on the same day in other case FIR No.151/98 u/s 61/1/14 Ex.Act. PS Ashok Vihar. It will be reviewed on 4.2.2002 or on finalization of DE whichever is earlier.

You may represent against with-holding of your integrity certificate to the Jt.C.P. (AP), Delhi within six weeks from the date of receipt of this U.O. if you so desire. You are also informed that inclusion of your name on the Secret list of doubtful integrity will affect your promotion, confirmation, deputation, extension, re-employment, crossing of E.B. etc."

4. The learned counsel for the applicant asserts that there was no ground as to why the name of the applicant should be kept on the secret list of persons of doubtful integrity and, therefore, the said order to that effect deserves to be quashed.

5. The Delhi Police has issued Standing Order No.265 pertaining to secret list of persons of doubtful integrity that is prepared and the relevant part of the same relating to circumstances under which the name of a person can be kept on the secret list of persons of doubtful integrity read:-

"6. SECRET LIST OF DOUBTFUL INTEGRITY

The list will be maintained in accordance

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with the instructions laid down in the Scheme for preparation, maintenance and custody of lists of public servants of doubtful integrity contained in Govt. of India's MHA's letter No. 105/1/66-VD dated 28.10.69 (Annexure-II). It will include the names of officers falling under one or more of the following categories:-

- i) Officials convicted in a court of law on the charge of lack of integrity or for an offence involving moral turpitude but due to exceptional circumstances, penalty other than that of dismissal, removal or compulsory retirement is imposed upon them.
- ii) Officials who are awarded a major penalty departmentally : (a) on charges of lack of integrity, (b) on charges of gross dereliction of duty in protecting the interest of Govt. although the corrupt motives may not be capable of proof; and (c) punished for misuse of power and abuse of official position to obtain pecuniary gain.
- (iii) Officials against whom proceedings for a major penalty or a court trial are in progress for alleged acts involving specific charges of lack of integrity or moral turpitude.
- (iv) Officials who were prosecuted but acquitted on technical grounds, though on the basis of evidence led in the trial a reasonable suspicion against their integrity is raised or who were dealt with departmentally but exonerated on technical grounds/ winning over of the witnesses.
- (v) Officials who are awarded minor penalty on charges involving specific charges of lack of integrity, moral turpitude pursuant to major penalty proceedings."

6. It is on the strength of the same that the learned counsel for the respondents contended that the applicant was involved in a matter pertaining to moral turpitude and, therefore, his name had rightly been kept on the secret list of persons of doubtful integrity.

7. On careful consideration of the matter,

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we find that even as per the Standing Order that has been so issued, the name of the applicant could not have been kept on the secret list of persons of doubtful integrity. This is for the reason that the applicant has not been convicted in a court of law on the charge of lack of integrity or for an offence involving moral turpitude.

8. Reliance was being placed on paragraph 6 (ii) of the Standing Order to contend that the applicant had been awarded major penalty departmentally and, therefore, his name had rightly been kept on the said secret list of persons of doubtful integrity. Even on that count merely because major penalty had been imposed is not a ground which permits the respondents to keep the name of the applicant on the secret list of persons of doubtful integrity. The charge does not include lack of integrity on the part of the applicant. Otherwise also, there is no charge of dereliction of duty in protecting the interest of Government although the corrupt motives may not be capable of proof. Nor there is anything to indicate that the applicant had been punished for misuse of power and abuse of official position to obtain pecuniary gain. Thus the necessary ingredient is that if a person is awarded a major penalty departmentally on charges of lack of

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integrity, his name can be kept on the secret list of doubtful integrity.

9. As regards the last submission that the applicant was involved in a matter pertaining to moral turpitude, it is not in dispute that the expression "moral turpitude" has not been defined in the Delhi Police Act and the rules framed thereunder. In the case of **Baleshwar Singh v District Magistrate and Collector, Banaras and others**, AIR 1959 ALLAHABAD 71, the expression "moral turpitude" had been considered. It was held:-

"(23) The expression 'moral turpitude' is not defined anywhere. But it means anything done contrary to justice, honesty, modesty or good morals. It implies depravity and wickedness of character or disposition of the person charged with the particular conduct. Every false statement made by a person may not be moral turpitude, but it would be so if it discloses vileness or depravity in the doing of any private and social duty which a person owes to his fellowmen or to the society in general. If therefore, the individual charged with a certain conduct owes a duty, either to another individual or to the society in general, to act in a specific manner or not to so act, and he still acts contrary to it and does so knowingly, his conduct must be held to be due to vileness and depravity. It will be contrary to accepted customary rule and duty between man and man."

Similarly in the case of **Pawan Kumar v. State of Haryana and another**, (1996) 4 SCC 17, the Supreme Court with respect to the expression "moral turpitude" held that it should be something which

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is inherently base, vile and depraved. It held:-

"12. "Moral turpitude" is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity. The Government of Haryana while considering the question of rehabilitation of ex-convicts took a policy decision on 2.2.1973 (Annexure E in the Paper-book), accepting the recommendations of the Government of India, that ex-convicts who were convicted for offences involving moral turpitude should not however be taken in government service. A list of offences which were considered involving moral turpitude was prepared for information and guidance in that connection. Significantly Section 294 IPC is not found enlisted in the list of offences constituting moral turpitude. Later, on further consideration, the Government of Haryana on 17/26-3-1975 explained the policy decision of 2.2.1973 and decided to modify the earlier decision by streamlining determination of moral turpitude as follows:-

"...The following terms should ordinarily be applied in judging whether a certain offence involves moral turpitude or not.

(1) whether the act leading to a conviction was such as could shock the moral conscience of society in general.

(2) whether the motive which led to the act was a base one.

(3) whether on account of the act having been committed the perpetrator could be considered to be of a depraved character or a person who was to be looked down upon by the society."

Lastly, we take advantage in referring to a decision of the Supreme Court in the case of **Allahabad Bank and Another v. Deepak Kumar Bhol**a, (1997) 4 SCC 1 where almost similar meaning was

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given to the expression "moral turpitude".

10. It is obvious from the aforesaid that "moral turpitude" is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity.

11. Reverting back to the facts of the present case, even the charge framed against the applicant and the allegations pertaining thereto do not show that it was an act of moral turpitude that was alleged against him. Every negligence of duty or wrong decision will not be an act involving moral turpitude. Even if a person is not taking due care and caution, he can be dealt with departmentally in that regard but it may not involve moral turpitude. The sum and substance of the allegation against the applicant was that while a raid was conducted and illicit liquor was recovered, the applicant and others failed to check mala fide intention of Assistant Sub Inspector Raghbir Singh who was the Investigating Officer in releasing the accused on the surety of Gopal Taneja. It was basically not taking due care and caution and cannot be termed to be an act of moral turpitude from the nature of the assertions. Therefore, the name of the applicant could not be kept on the secret list of persons of

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doubtful integrity.

12. As pointed above, the OA No. 2312/2001 filed by the applicant challenging the penalty imposed upon him has since been dismissed. It was with respect to dereliction of duty, but it cannot be said to be an act involving moral turpitude because there is clear distinction between dereliction of duty, negligence and moral turpitude. Therefore, the impugned order whereby the name of the applicant had been kept on the secret list of persons of doubtful integrity necessarily must be set aside and is quashed. Regarding the other controversies raised, since the earlier original application has since been dismissed, there is no ground to interfere.

13. Resultantly, the application is allowed and the impugned order is quashed. No costs.

Announced.

(Govindan S. Tampi)
Member (A)

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(V. S. Aggarwal)
Chairman