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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

O.A.No.1110/94

New Delhi, this the 5<sup>th</sup> day of September, 1994.

HON'BLE SHRI J.P.SHARMA MEMBER (J)

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

S.I. Madan Singh No.D-1594  
s/o Shri Shangara Singh,  
r/o D-837, Peshwa Road, Gole Market,  
New Delhi.

..Applicant

(By Shri Shankar Raju, Advocate)

Vs.

1. Lt.Governor of N.C.T.Delhi  
through: Addl. Commissioner of Police,  
Northern Range, Police H.Qrs.,  
M.S.O. Bldg., New Delhi.

2. Dy. Commissioner of Police,  
North-West District,  
Ashok Vihar, Delhi.

..Respondents

(By Shri B.S.Gupta, Advocate)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

The applicant was posted as incharge Police Post Prashant Vihar under the jurisdiction of Police Station of Samepur Badli, Delhi. A case F.I.R.No.282 dated 13-7-1993 under section 61/1/14 Excise Act was registered at P.S.Samepur Badli regarding the illegal transportation of 156 bottles of liquor. It has been alleged against the applicant that the vehicle was not deposited by the applicant on the same day in the Malkhana alongwith other case-property and instead the same has been kept in the police post. The Deputy Commissioner of Police vide show cause notice dated 29-7-93 (An.A3) proposed a minor penalty of 'Censure' and sought an explanation from the applicant on the allegation of non-deposition of vehicle in the malkhana. The applicant, within the time limit, preferred a reply to the said show cause notice by taking the plea that the applicant

5

is not to be blamed as the case-property was deposited on the same day in the malkhana, but the seizure Memo in respect of the vehicle was handed over to malkhana moharrer and the said vehicle got punctured and could not be transported to the police station. But subsequently after repair, the same was deposited in the malkhana. The reply to the show cause notice is at An.A4. Based on the reply filed by the applicant, order dated 23-12-93 was passed as under:-

"The Deputy Commissioner of Police, North-West District is pleased to vacate the show cause notice for censure issued to S.I. Madanjit Singh No.D/1594 vide this office No.11309/HAP/NW dated 29-7-93 after considering the reply submitted by him."

2. After a period of about five months, the appellate authority suo moto exercised the powers under the Punjab Police Rules 16.28(ii) and issued further order dated 19-5-94 which reads as under:-

"Kindly refer to your office letter No.6943/HAP/NW dated 16-5-94 regarding D.E. against SI Madanjit Singh No.D-1594.

2. A show cause notice for censure was issued by D.C.P./North West vide his office order No.11309/HAP/NW dated 29-7-93 to SI Madanjit Singh No.D-1594. I find that a vigilance enquiry on the same facts was going on and therefore issue of show cause notice for censure at that stage was not proper. Under PPR 16.28(ii), I, P.R.S.Brar, Addl. Commissioner of Police, Northern Range therefore order that the above mentioned show cause notice is decided as withdrawn and shall not be any impediment on any such decision that the disciplinary authority may take on the enquiry conducted in this incident. The relevant file received vide your letter under reference is returned herewith.

Sd/-

P.R.S.Brar,  
Addl. Commissioner of Police  
Northern Range: Delhi."

Pursuant to this, a departmental enquiry had been ordered vide order dated 20-5-94 An.A2. This O.A has been filed for quashing the above two orders

dated 19-5-94 at annexure A1 and the orders regarding departmental inquiry dated 20-5-94 at annexure A2.

3. The main ground relied upon by the learned counsel for the applicant is that the powers for suo moto review under the Punjab Police Rules are no more available after the enactment of Delhi Police Act, 1978. Under section 149 of the Delhi Police Act, 1978, the Police Act of 1861 ceased to be in force. Correspondingly, the Punjab Police Rules which were formed in pursuance of the Police Act of 1861 also ceased to be in operation. The legislations which are holding the filed today are the Delhi Police Act 1978 and its subordinate rule i.e. Delhi Police (Punishment & Appeal) Rules, 1980. In the new rules no powers of review have been provided. This legal point has not been effectively countered by the respondents.

4. In the circumstances, we have to quash the order of the Additional Commissioner of Police dated 19-5-94 as this order has been passed without necessary authority. The order regarding departmental inquiry dated 20-5-94 which is in pursuance of the above order of the Additional Commissioner of Police also stands quashed. No costs.

P. T. Thiruvengadam

(P.T. THIRUVENGADAM)  
Member(A)

'M'

J. P. Sharma

(J.P. SHARMA)  
Member(J)