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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA No.918/88

Date of decision: 4.10.1993.

Shri Bhoop Singh

...Petitioner

Versus

Union of India & Others

...Respondents

Coram:- The Hon'ble Mr. N.V. Krishnan, Vice-Chairman  
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner Shri A.S. Grewal, Counsel.

For the respondents Shri B.S. Oberoi, proxy  
counsel for Shri Anup Bagai,  
Counsel.

Judgement(Oral)  
(Hon'ble Mr. N.V. Krishnan, Vice-Chairman)

The applicant is aggrieved by the penalty imposed on him by the Annexure-E order dated 7.5.1986 passed by the Deputy Commissioner of Police, North District, respondent No.5 and the dismissal of his appeal by the order dated 19.1.1987 Annexure-G by the Additional Commissioner of Police, respondent No.4. The charge relates to an accident caused by a bus in respect of which an offence under Section 279/337 IPC was registered on 10.7.1981. That charge reads as under:-

"I Raghubir Singh ACP/Hdqrs, North Distt. Delhi charge you ASI Bhoop Singh NO.2526/N u/s 21 of the Delhi Police Act 1978 for your gross negligence in that you investigated case FIR No.844 dated 10.7.1981 u/s 279/337 IPC Police Station Kotwali in which Bus No. DLP 5680 was involved. During the investigation you seized the vehicle involved in the accident and arrested driver R.C. Gupta but the Bus and the driver as well were released by you without bringing any thing on record. Further the case was registered on 10.7.81 but

you visited the Transport Authority to ascertain the ownership of the vehicle involved in the accident on 18.8.81 per C.D.N.4 i.e. after a period of 39 days and issued the notice u/s 88 M.V. Act on 12.10.81 as per CD No.8 after a further lapse of 84 days after getting the address of the owner. Thus you made the first attempt to contact the owner after a period of 94 days."

2) An enquiry was held. A copy of the enquiry report is at Annexure-C. The Enquiry Officer came to the following conclusion:-

"It is also worth mentioning that the defaulter had been given a show cause notice for censure by the then D.C.P/North on 1.12.82 i.e. before the initiation of the D.E. and the same was filed after considering the defaulter's explanation as satisfactory as per statement of PW-II. Hence the defaulter cannot be held guilty for improper investigation of the case which is the main charge. The other I.Os. who investigated the case subsequently also could not work out the case and the same was again sent as untraced as per statement of P.W. V, H.C. Jaipal Singh. As regards the delay in investigation of the case there has been some delay on the part of the defaulter in ascertaining the ownership of the vehicle and issuing notice u/s 88 M.V. Act which normally occurs due to other emergent nature of duties due to which a lenient view needs to be taken."

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The disciplinary authority issued a show cause notice to the applicant and after considering his explanation issued the Annexure-E order dated 7.5.1986 by which two years' approved service was forfeited temporarily for two years, resulting in reduction of pay from Rs.400/- to Rs.380/- per month. The period of suspension from 3.3.1983 to 8.6.83 was not treated as spent on duty for any purpose.

3) The appeal (Annexure-F) order dated 2.7.1986 filed by the applicant was also dismissed on 19.1.87 by the Annexure-G order.

4) A revision petition filed by <sup>the</sup> / has also been rejected by the Commissioner of Police, respondent No.3 on 7.5.1987 (Annexure-D).

5) Hence the applicant has prayed for quashing the impugned orders.

6) The respondents have filed a reply denying any relief to the applicant.

7) We have heard the learned counsel for the parties.

8) The learned counsel for the applicant argued that the initiation of the ~~de novo~~ <sup>disciplinary</sup> proceedings by the A.C.P (Headquarters) North District on 29.4.1983 by issuing the summary of allegations (Annexure-A) is without jurisdiction in terms of Rule 14 (4) of Delhi Police Punishment & Appeal Rules, 1980. That rule states that the disciplinary action shall be initiated by the competent authority under whose disciplinary control the Police Officer concerned is working at the time it is decided to initiate disciplinary action. The learned counsel contends that when the Annexure-A summary of allegations was issued, he already stood transferred to the Police Headquarters, which is a different

unit and, therefore, the entire proceedings are without jurisdiction.

9) The learned counsel for the respondents points out that this averment is not correct. It is stated in paragraph-9(e) of the reply that at the time of the accident in 1983, the applicant was in North District from where he was suspended and he was transferred to the Police Control Room only in 1986. Therefore, the disciplinary authority was Deputy Commissioner, North District and the initiation by the A.C.P. North District is not illegal.

10) This has not been rebutted by the applicant in any way. This ground, therefore, has no force.

11) The learned counsel for the applicant then submits that the Enquiry Officer has stated that in the disciplinary proceedings for imposition of punishment of censure, a notice was given by the D.C.P. North District on 1.12.1982, i.e., before the initiation of the present D.E. However, after considering the applicant's reply that punishment was imposed. This finding is recorded by the Enquiry Officer on the basis of the statement of PW-2. He, therefore, contended that on the same ground a fresh proceeding cannot be initiated for the second time.

12) The learned counsel for the respondents points out that in the show cause notice issued a censure was actually awarded to the applicant and a reference is made to this subject in paragraph 3 of the disciplinary authority's order. It is stated that the said show cause notice was not based on the delay in investigating which is the substance of the charge in the instance case. The learned counsel for the respondents also refers to the records and submits that the punishment of censure awarded was found in appeal filed by the applicant

to be not commensurate and accordingly, the matter was directed to be taken up in departmental proceedings.

13) We have seen the records and the order dated 22.1.1985 by the appellate authority which refers to the order of censure dated 3.10.1984 passed by the D.C.P (North) in connection with the investigation of case FIR 844 dated 10.7.1981 in which Bus No.5680 was involved. The appellate authority directed de novo departmental proceedings to be conducted against the applicant. In the circumstances, this ground raised by the learned counsel has also no force.

14) In any case, we find that after the enquiry, the Enquiry Officer has come to the conclusion that there has been some delay on the part of the defaulter in ascertaining the ownership of the vehicle and issuing notice under Section 88 of Motor Vehicle Act. The Enquiry Officer has, however, noticed that this could be due to pre-occupation in other emergent duties and hence he recommended a lenient view to be taken. However, it is clear that one aspect of the charge, has, in any case, been proved against the applicant. In the circumstances, we are of the view that the applicant has not made out any case for our interference. Hence this O.A. is dismissed. No costs.

  
(B.S. HEGDE)  
MEMBER(J)

  
4.10.83  
(N.V. KRISHNAN)  
VICE-CHAIRMAN

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