

Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.2477/2004

M.A.No.408/2005

Hon'ble Mr.Justice V.S. Aggarwal, Chairman
Hon'ble Mr.S.A. Singh, Member(A)

New Delhi, this the 16th day of March, 2005

ASI Gurdeep Singh
No. 11/D
S/o Shri Sukhdev Singh,
R/o N-19, 2nd Floor,
Rajouri Garden,
New Delhi

....Applicant

(By Advocate: Shri Saurabh Ahuja)

Versus

1. GNCT of Delhi
Through Commissioner of Police,
Police Head Quarters,
IP Estate, New Delhi.
2. Joint Commissioner of Police,
Southern Range,
Police Head Quarters,
IP Estate, New Delhi.
3. Deputy Commissioner of Police,
South West District,
Vasant Vihar, New Delhi.
4. Joint Commissioner,
(Establishment) Police Head Quarter,
IP Estate, New Delhi.
5. Deputy Commissioner of Police,
(Establishment) Police Head Quarters,
I.P. Estate, New Delhi

....Respondents

(By Advocate: Mrs.Rashmi Chopra)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant is an Assistant Sub-Inspector of Police. He seeks quashing of the impugned order imposing the penalty of censure on him.

2. Some further facts would precipitate the question in controversy. The applicant had been served with the following show cause notice:

"It is alleged that on 31.10.2002, ASI Gurdeep Singh, No.11/D alongwith one Param Pal Singh came to the shop of the complainant, Sh. Surinder Kumar S/o Sh. Sohan Lal at W-94, Maya Puri, Phase-II, New Delhi. They took him to P.S. Maya Puri and got prepared a false complaint against him, threatened to involve him in a false criminal case, snatched his mobile phone and extorted Rs.15,000/- from him. In connivance with ASI Gurdeep Singh, Param Pal Singh, is indulging in illegal activities of extortion, inducement, criminal intimidation, impersonation and criminal conspiracy. He is having a false identity card of Delhi Police and on the basis of the said identity card, he deceives the poor and illiterate persons by threatening to involve them in false criminal cases. This also shows lack of supervision of SHO/Maya Puri as he should keep awareness about the activities of his staff working under him.

The above act of the part of Inspr. Rajender Singh, No. D-V575, SHO/Maya Puri and ASI Gurdeep Singh, No.11/D amounts to gross misconduct, negligence, carelessness and dereliction in the discharge of their official duties.

Therefore, they are hereby called upon to show cause within 15 days from the date of its receipt as to why their conduct should not be censured for their above lapse. Their reply, if any, in this regard should reach the undersigned within the stipulated period failing which it will be presumed that they have nothing to say in their defence and the matter will be decided ex-parte on its merit."

Thereafter the impugned order had been passed after considering the reply of the applicant. The operative part of the order reads:

"A copy of the said show cause notice was served upon the ASI against his proper receipt with the direction to submit

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his reply to the said notice. Accordingly he submitted his reply in response to the said notice. I have carefully gone through his written reply and other relevant record. He has stated that he dealt the complaint of Shri Param Pal Singh against Surinder Kumar regarding a dispute over valuable articles, fairly without any favour to any person. It was a minor dispute over some dues between them who were known to each other. His reply is not satisfactory. The ASI has not given any explanation in his reply about the activities of Param Pal Singh, snatching and mobile phone and extortion of Rs.15,000/- from the complainant. I am not convinced with the reply submitted by the ASI as the same has not been found satisfactory. Therefore, the punishment proposed in the show cause notice is confirmed. The conduct of ASI Gurdeep Singh, No.11/D is hereby censured.

Let a copy of this order be given to him free of cost. He can file an appeal against this order to the Joint C.P./SR, Delhi within 30 days from the date of its receipt on a non-judicial stamp paper worth Rs.00.75 paise, by enclosing a copy of this order, if he so desires."

The appeal filed by the applicant has since been dismissed.

3.The petition is being contested.

4.The sole submission which requires consideration as for the present is as to if the provisions of sub-rule 2 to rule 15 of Delhi Police (Punishment and Appeal) Rules have been complied with or not. Sub-rule 2 to Rule 15 reads as under:

"15.(2) In cases in which a preliminary enquiry discloses the commission of a cognizable offence by a police officer of subordinate rank in his official relations with the public, departmental enquiry shall be ordered after obtaining prior approval of the Additional Commissioner of Police concerned as to whether a criminal case should be registered and investigated or a departmental enquiry should be held."

5.It clearly shows that before the rigours of the said sub-rule comes into play, there should be a preliminary enquiry which should disclose

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commission of cognizable offence in relation with public and before the departmental enquiry is initiated, prior approval of the Additional Commissioner of Police should be obtained as to whether a criminal case has to be registered or the matter is to be dealt with departmentally.

6. Perusal of paragraph 4.7 of the reply clearly indicates that there was an enquiry got conducted before the present action was taken. Paragraph 4.7 reads:

"4.7 That the contents of para 4.7 are admitted to the extent that on receipt of a complaint from Shri Surinder Kumar S/o Shri Sohan Lal R/o W-94, Mayapuri, Phase-II, New Delhi, an enquiry had been got conducted through Insp. Vigilance/SWD and on the basis of enquiry report, a show cause notice proposing therein for the award of punishment of Censure had been issued to the applicant vide No.5621-23/HAP-I/SWD, dated 23.4.2004 for his misconduct with the complainant."

It admits thus that there was a preliminary enquiry and on basis of that, a show cause notice was issued.

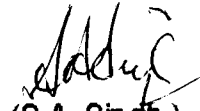
7. It is alleged against the applicant that he had extorted certain amount besides snatching the mobile phone. It is a cognizable offence alleged to have been committed in relation with a public person. It thus attracts the rigours of sub-rule 2 to rule 15 of the Rules referred to above and accordingly, admittedly when permission of the Additional Commissioner of Police has not been taken in the present case, the impugned orders cannot be sustained.


8. Resultantly, we allow the present application on this short ground and quash the impugned orders. However, we make it clear that the respondents

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may initiate departmental action, as deemed appropriate.


(S.A. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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