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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO.2595 OF 2004

New Delhi, this the 26th day of August, 2005

HON'BLE SHRI M.K. MISRA, ADMINISTRATIVE MEMBER

Inspector Abhay Singh No.D-1/1045,
S/o Shri S.S. Yadav,
R/o G-3, Police Station,
Sarojini Nager, Delhi.

.....Applicant .

(By Advocate : Shri Sachin Chauhan)

VERSUS

1. Union of India,
Through its Secretary,
Ministry of Home Affairs, North Block,
New Delhi.
2. Joint Commissioner of Police,
Northern Range,
Police Headquarters, I.P. Estate,
M.S.O. Building, New Delhi.
3. Deputy Commissioner of Police,
Central District,
Darya Ganj,
New Delhi.

.....Respondents .

(By Advocate : Mrs. Sumedha Sharma)

ORDER

The applicant – Shri Abhay Singh, an Inspector in Delhi Police, was awarded a minor penalty of ‘censure’ which has been assailed by the applicant through this OA and further making a prayer to quash and set aside the show cause notice dated 10.2.2004 (Annexure A-1), penalty order dated 6.2.2004 (Annexure A-2) and appellate order dated 10.9.2004 (Annexure A-3). The show cause notice dated 10.2.2004 reads as under:-

“SHOW CAUSE NOTICE

on 3.2.2004 at around 2.32 A.M., a PCR call was received at
P.S. Pahar Ganj that one Toyota Qualis No.DL-IVB-0300 has been

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robbed by some miscreants in front of Ambedkar Bhawan on Gun Point. DD No.4A dated 3.2.2004 PS Pahar Ganj, New Delhi lodged in this regard was marked to ASI Gurjeet Singh, No.4752/D who along with Ct. Raj Kumar, No.117/C rushed to the spot. The call was confirmed and a case vide FIR No.37 dated 3.2.2004 u/s 392/34 IPC was registered at PS Pahar Ganj in this regard on the statement of Sh. Ram Bilas Singh S/o Sh. Kamleshwari Singh r/o D/22, Sector 24, Rohini, Delhi. ASI Gurjeet Singh informed Inspr. Abhey Singh Yadav, SHO/Pahar Ganj telephonically about this incident but the SHO did not inform his seniors about the incident, which has put the senior officers in embarrassing position.

The above said act on the part of Inspr. Abhey Singh Yadav SHO/Pahar Ganj amounts to gross negligence, carelessness and dereliction in the discharge of official duties.

He is, therefore, called upon to show cause as to why his conduct should not be censured for the above said lapse. His reply of any, should reach this office within 15 days from the date of receipt of this notice, (sic) which, it will be presumed that he has nothing to say in his defence and order will be passed ex-parte on merits."

2. The learned counsel for the applicant submitted that there is no written instructions on the subject that the only SHO would inform the higher authorities about the incident of crime committed. The ASI or the other officials working under the SHO, i.e., applicant, had already informed the higher authorities about the incident and this is proved by the fact that higher authorities visited the place of crime on the basis of information given by the subordinate officials. It was further submitted by the learned counsel for the applicant that what type of embarrassment is caused to the higher authorities was not narrated in the show-cause notice nor in the penalty order nor in the appellate order. The charges in the show-cause notice are vague in nature and the penalty order as well as appellate order passed against the applicant are also without any reasons and are not of speaking orders in nature.

3. The learned counsel for the respondents submitted that the SHO is the incharge of the Thana and he is supposed to inform the higher authorities of the incident on receipt of the information by him. Now-a-days media is very much hyper-active, therefore, higher authorities are supposed to know the nature of the

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crime as early as possible and it is the duty of the SHO to inform the higher authorities about the crime committed in his area/jurisdiction. This is a usual practice in the police organisation although there is no written instructions on this aspect.

4. I have heard the learned counsel for the parties and perused the material available on record.

5. It is observed that in the show-cause notice dated 10.2.2004 the manner in which the action of the applicant leading to the grave mis-conduct of the applicant has not been mentioned. Similarly, in the penalty order, the disciplinary authority has not treated the action of the applicant as misconduct. He did not come to the conclusion that there is a gross misconduct, particularly, in the absence of any written instructions on the subject. Similarly appellate order is also silent regarding the gross misconduct, if any, committed by the applicant. In the case of *UOI and Ors. v. J. Ahmed*, 1979 SCC (2) 286, the Apex court held that the mis-conduct means mis-conduct arising from ill motive, act of negligence and error of judgment. Innocent mis-conduct do not constitute such mis-conduct. Same view was expressed in the case of *UOI and Ors. V. K.K. Dhawan*, 1993 (2) SCC 56. In the present case, it was not held by the disciplinary authority or the appellate authority that whether the mis-conduct on the part of the applicant was innocent or it was deliberate with ill motive. Thus, the show-cause notice dated 10.2.2004 (Annexure A-1), penalty order dated 6.2.2004 (Annexure A-2) and appellate order dated 10.9.2004 (Annexure A-3) are quashed and set aside.

6. In the result, OA is allowed with no order as to costs.


(M.K. MISRA)
ADMINISTRATIVE MEMBER

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