

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2821/2004

New Delhi, this the 9th day of August, 2005

Hon'ble Shri Shanker Raju, Judicial Member

Kapoor Singh
ASI in Delhi Police
PIS No.28730701
R/o 24/266, Barahi Road
Nehru Park, Bahadurgarh,
Haryana.

...Applicant

(By Advocate Shri Anil Singhal)

V E R S U S

Govt. of NCT of Delhi through

1. Commissioner of Police
Police Headquarters
IP Estate, New Delhi.
2. Joint Commissioner of Police
Traffic, PHQ, IP Estate
New Delhi.
3. ACP (Traffic North Distt.)
through Commissioner of Police
Police Headquarters, IP Estate
New Delhi.

...Respondents

(By Advocate Mrs. Renu George)

O R D E R (O R A L)

Applicant impugns the respondents order dated 29.4.2004 imposing upon the applicant minor penalty of Censure as well appellate order dated 12.8.2004 affirming the aforesaid punishment under Rule 6 of the Delhi Police (Punishment & Appeal) Rules, 1980. Applicant while working as ASI on 31.3.2004 has been alleged to have insisted on payment of compounding fee on jumping red light by one Shri Madan Sagar, Advocate and was also alleged to deliberately harassed and mis-used the legal authority. A reply filed by the applicant culminated into a minor punishment on the ground that when the driving license of scooter driver was shown, the applicant has exceeded his authority to call for other documents and his insistence to call for compounding fee when the driver wanted to contest the case shows his misconduct.

2. An appeal preferred was also turned down giving rise to the present OA. Learned counsel for the applicant Shri Anil Singhal contended that a show cause notice was issued on complaint, copy of which had never served upon the applicant nor any enquiry was held to effectively defend the applicant to cross examine the complainant. Shri Singhal contends that immediately after the incident, on reporting back to P.S. subsequently, the applicant has lodged D.D. No.20 vide which he has stated that when he asked for the driving license, once called for other documents, Shri Madan Sagar, Advocate could not produce the same and had left the vehicle on his own by threatening him. In the above context, it is stated that the defence is not after thought and has not been considered.

3. On the other hand, respondents' counsel vehemently opposed the contentions and stated that the applicant's misconduct has been proved and he has never prayed either for supply of copy of the complaint or holding for any enquiry as such the punishment imposed upon him and affirmation is after following the due process of law under the rules and is commensurate with the misconduct.

4. On careful consideration of the rival contentions of the parties, at the outset, as held by the Apex Court in **Indira Bhanu v. Committee Management of Degree College** (2004 (1) SCSLJ 3) that one who does not avail the opportunity, cannot assail the order for violation of principles of natural justice. The applicant has deliberately withheld the reply to the show cause notice being annexed with the OA and in his appeal, I do not find either a request for supply of copy of complaint or request for holding an enquiry. As per rule 6 of the act *ibid*, the only requirement in a minor punishment is to serve a show cause notice and an opportunity to file a representation. However, under Rule 16 of the CCS (CCA) Rules, and as per DoPT OM dated 28.10.1985, if a request for holding an enquiry is made in a minor penalty chargesheet, disciplinary authority has to record the reasons to reject it or in the alternative, enquiry is to be held as per rule 14 of the CCS (CCA) Rules. In the wake of no request, applicant, despite opportunity, has not availed of his right, as such he cannot complain of violation of natural justice.

5. Even on facts, when the scooter driver Shri Madan Sagar jumped the red light and had not wanted compounding fee to be paid on production of driving license, no more legal requirement is to be satisfied and the applicant has no authority to ask for any other

documents. Once the person wanted to contest the case in Court, insistence of the applicant without any authority to seek for other documents and to take compounding fee is itself indicated excess in discharge of his authority, which cannot be countenanced and for which a punishment imposed is commensurate with the misconduct which is inflicted after following the due process of law, which does not suffer from any legal infirmity.

6. In the result, for the forgoing reasons, OA lacks merit and is accordingly dismissed. No costs.

S. Raju

(Shanker Raju)
Judicial Member

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