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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.1926/2004

New Delhi, this the 1st day of April, 2005

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

Sunil Godiyal,
Sub-Inspector in Delhi Police,
PIS No.16950232,
R/o C 2/72, Janak Puri,
New Delhi 58

... Applicant

(By Advocate: Shri Anil Singal)

Versus

1. Govt. of NCT of Delhi, through
The Commissioner of Police,
Police Head Quarters,
I.P.Estate, New Delhi
2. Jt. Commissioner of Police,
New Delhi Range, PHQ,
I.P. Estate, New Delhi.
3. Asstt. Commissioner of Police,
Chanakya Puri, New Delhi

... Respondents

(By Advocate: Shri Rishi Prakash)

Order(Oral)

Justice V.S. Aggarwal, Chairman

The applicant is a Sub-Inspector in Delhi Police. By virtue of the present application, he seeks to assail the order imposing penalty of censure dated 21.5.2003 and of the appellate authority dismissing the appeal dated 26.3.2004.



2. The relevant facts can be conjoled and have been reproduced in the show cause notice which is to the following effect:

"Whereas case FIR No.299 u/s 420/468/471/511 dt.22/8/2001 P.S. CH. Puri was entrusted to you SI Sunil Godial No.D-1127 for investigation and whereas you were required to arrest the culprits and to recover the case property involved. You have not made any significant effort to arrest the accused/Agent named Dinesh Nagpal who is stated to be running a dubious business in the name of THE MOON EXIM [P] LTD. From 134-A, Somdutt Chambers, Bhikaji kama Place and whose address is also verified .4.

And whereas you were also directed to arrest the above cited culprits while reviewing your cases on 29/4/2002 emphasizing upon the fact that a considerable period of time has lapsed but you have not reported any such arrest to the undersigned in the above matters up-to this date.

And whereas the accused persons who are not arrested in this case are the dubious Travel Agents who are often influential persons, experts in forging the documents or in making available all sorts of forged documents and duping the vulnerable category of persons and thereby fraudulently gaining huge amounts of money from those persons. These type of culprits should not be allowed to go scot-free and should be arrested without any loss of time.

The above act on part of you SI Sunil Godiyal No.D/1127 amounts to gross misconduct negligence/derelection of duty and thereby causing undue delay adversely affecting the judicial process because the accused persons can destroy some important piece of evidence against them or may try to manipulate the facts in their favour in such a long period of time given to them by not apprehending them.

Therefore, You, SI Sunil Godiyal No.D-1127 are hereby called upon to show cause as to why your conduct should not be censured for these lapses. Your reply to this notice, if any, should reach the office of the



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undersigned within 15 days from the receipt of this notice failing which it would be presumed that you have nothing to say and the matter will be decided Ex-parte on merits."

3. After considering the reply, the disciplinary authority recorded that the address of the Company "(BLUE MOON EXIM (P) LTD.", 134-A, Somdutt Chambers, Bhikaji Cama Place was found to be fictitious. The address of the Director was found to be fake. It concluded that the applicant did not care for his assigned duties of arresting the accused Dinesh Nagpal and co-accused Renu Sharma. A penalty of censure was imposed. The applicant filed an appeal which was dismissed with the following findings:

"Following the appeal, I have heard the appellant in person. He contended that the investigation of the case was taken up by another I.O. and it was transferred to him on 18.12.2001; that several raids were conducted at the residence of co-accused Renu Sharma who was subsequently declared P.O. after completing the proceedings u/s 82/83 Cr.P.C.; that he got NBW issued against Dinesh Nagpal after tracing out his address; and thereafter he was transferred out from the Police Station. On scrutiny of record and the clarifications sought from DCP/New Delhi District, it is found that the case was initially investigated by SI Sandeep Ghai and subsequently by the appellant. The addresses of the alleged accused persons were on record but the appellant did not make any sincere efforts to arrest them. The appellant did not carry out any investigation at Room No.807, Rohit Bhawan, Connaught Place where the accused Balvinder Singh met the absconders for procuring an Italian passport. He also did not make any efforts to contact the actual allottee of the premises at 134-A Som Dutt Chambers, Bhikajicama Palace to know the whereabouts of the alleged accused persons. The appellant conducted the investigation in careless and negligent manner with the result prime accused persons are still at large. Therefore, I have no reason to interfere/intervene with

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the decision of the disciplinary authority and hence reject his appeal."

4. The petition is being contested.

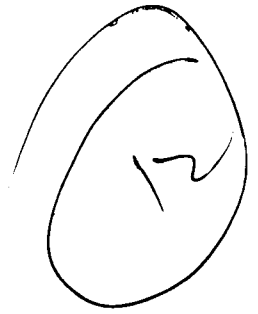
5. Learned counsel for the applicant raised various pleas:

- a) procedure for imposing the penalty is illegal;
- b) the applicant has done all what was within his power so long as he was investigating the matter. He made sincere efforts to arrest the accused Dinesh Nagpal who was reportedly running a dubious business and got the co-accused Renu Sharma declared as a proclaimed offender; and
- c) appellate authority has taken into consideration certain extraneous factors which were not a part of the show cause notice.


6. For the present, we are not delving into the first two arguments. This is for the reason that perusal of the order passed by the appellate authority indicates that it has taken into consideration certain clarifications that were obtained from the Deputy Commissioner of Police, New Delhi. It has rightly been pointed that these facts were not a part of the charge.


7. The purpose of show cause notice is that the person concerned should be made available the facts rather than clarifications are obtained at the back of the applicant. He is not aware of these clarifications. Thus he can conveniently state that prejudice has been caused to him.

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3. On this short ground, therefore, we quash the impugned order of the appellate authority and direct that preferably within three months from today, a fresh order should be passed. O.A. is disposed of.


(S.A. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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