

**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH**

**Original Application No.422/2004**

**with**

**Original Application No.420/2004**

**Original Application No.1435/2003**

**Original Application No.1712/2003**

**Original Application No.1717/2003**

**Original Application No.3072/2003**

New Delhi, this the 14 day of October, 2004

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman**

**Hon'ble Mr. Sarweshwar Jha, Member (A)**

**O.A.No.422/2004:**

Prakash Chand

ASI in Delhi Police

PIS No.29690143

R/o B-5, New Police Lines

Kingsway Camp, Delhi-9.

.... Applicant

**(By Advocate: Sh. Anil Singhal)**

Versus

1. Govt. of NCT of Delhi  
Through Commissioner of Police  
Police Head Quarters  
IP Estate, New Delhi.

2. Addl. Commissioner of Police  
PCR & Communication, PHQ  
IP Estate, New Delhi.

3. DCP (PCR)  
Police Head Quarters  
IP Estate, New Delhi.

.. Respondents

**(By Advocate: Sh. Ajesh Luthra)**

**O.A.No.420/2004:**

Prakash Chand No.688/D

ASI in Delhi Police

PIS No.29690143

R/o B-5, New Police Lines

Kingsway Camp, Delhi-9.

.... Applicant

**(By Advocate: Sh. Anil Singhal)**

Versus

1. Govt. of NCT of Delhi  
Through its Chief Secretary  
Police Head Quarters  
IP Estate, New Delhi.

14

- 2 -

2. Commissioner of Police  
Police Head Quarters  
IP Estate, New Delhi.
3. Deputy Commissioner of Police  
(Headquarters), PHQ,  
IP Estate, New Delhi.
4. Sh. Brahm Prakash 698/D  
Then ASI Now SI (ad-hoc) in Delhi Police  
(To be served through Respondent No.2) .. Respondents

(By Advocate: Sh. S.Q.Kazim)

**O.A. No.1435/2003:**

✓  
Jitender Kumar  
Sub-Inspector in Delhi Police  
PIS No.16950061  
R/o A-1/1, Type-3  
Pritam Pura, Police Lines  
New Delhi – 34. ... Applicant

(By Advocate: Sh. Anil Singhal)

Versus

1. Govt. of NCT of Delhi  
Through Commissioner of Police  
Police Headquarters  
IP Estate, New Delhi.
2. Jt. Commissioner of Police  
Southern Range, PHQ  
IP Estate, New Delhi.
3. Addl. DCP (West Dist.)  
PS Rajouri Garden, New Delhi. .. Respondents

(By Advocate: Sh. Ashwini Bhardwaj, proxy of Sh. Rajan Sharma)

**O. A.No.1712/2003:**

Kishan Pal  
Head Constable in Delhi Police  
PIS No.28730219  
R/o H. No.F-3, Gali No.1  
Khajuri Khas, PO Gokul Puri  
Delhi – 94. ... Applicant

(By Advocate: Sh. Anil Singhal)

Versus

1. Govt. of NCT of Delhi  
Through Commissioner of Police  
Police Head Quarters  
IP Estate, New Delhi.

2. Addl. Commissioner of Police  
PCR & Communication, PHQ  
IP Estate, New Delhi.

3. DCP (PCR)  
Police Headquarters  
IP Estate, New Delhi.

... Respondents

**(By Advocate: Sh. Ram Kavar)**

**O.A.No.1717/2003:**

Kishan Pal  
Head Constable in Delhi Police  
PIS No.28730219  
R/o H.No.F-3, Gali No.1  
Khajuri Khas, PO Gokul Puri  
Delhi - 94.

... Applicant

**(By Advocate: Sh. Anil Singhal)**

Versus

1. Govt. of NCT of Delhi  
Through Commissioner of Police  
Police Head Quarters  
IP Estate, New Delhi.
2. Special Commissioner of Police  
Administration, PHQ  
IP Estate, New Delhi.
3. Joint Commissioner of Police  
(Headquarters), PHQ,  
IP Estate, New Delhi.

... Respondents

**(By Advocate: Sh. Ram Kavar)**

**O.A.No.3072/2003**

Rajnder Paul  
S/o Late Shri Pyara Singh  
R/o J-9 IIIrd Floor  
Vikas Puri, New Delhi.

... Applicant

**(By Advocate: Sh. Arun Bhardwaj)**

Versus

1. Union of India through  
Lt. Governor of Delhi  
Raj Niwas, Delhi.
2. Commissioner of Police  
Police Head Quarter  
I.P.Estate  
New Delhi.

-4-

3. Joint Commissioner of Police  
Sadar Range, New Delhi.
4. Dy. Comm. of Police  
South West District  
P.S. Vasant Vihar, New Delhi. .. Respondents

(By Advocate: Sh. S.Q.Kazim)

### ORDER

By Mr. Justice V.S. Aggarwal:

By this common order, we propose to dispose of the following Original Applications which basically involve a common question:

**Original Application No.422/2004**  
**with**  
**Original Application No.420/2004**  
**Original Application No.1435/2003**  
**Original Application No.1712/2003**  
**Original Application No.1717/2003**  
**Original Application No.3072/2003**

For the sake of convenience, we are taking the facts of the case from OA No.422/2004 entitled *Prakash Chand v. Govt. of NCT of Delhi & Others*.

2. The applicants have sought to quash and set aside the orders passed by the respondents imposing the penalty of censure and also to declare Rule 6(ii) of Delhi Police (Punishment & Appeal) Rules, 1980 as ultra vires to the provisions of Section 21 of the Delhi Police Act and also to the provisions of the Constitution of India. They also seek to declare that the minor penalty of 'Censure' awarded which is not in pursuance to the major penalty proceedings will not attract Clause-II of Circular of 9.12.2003 and in the said Circular, Clause-II is not valid.

3. So far as Sh. Prakash Chand is concerned, it has been asserted that on a complaint received, a preliminary inquiry was conducted through the Vigilance Cell of the Police Control Room. On the basis of the preliminary inquiry, the disciplinary inquiry for a minor penalty of 'Censure' was initiated. A show-cause notice was served on the applicant. After considering the reply, the conduct of the applicant had been censured. His appeal was rejected. It is on these facts that the



vires of Rule 6(ii) of Delhi Police (Punishment & Appeal) Rules, 1980 and of Clause-2 of the Circular of 9.12.2003 are being challenged besides the reliefs to which we have referred to above.

4. The applications have been contested. In case of ASI Prakash Chand, it has been pleaded that a show cause notice for imposing the penalty of 'Censure' was issued to him and others on the allegations that a complaint on telephone against the staff of the Police Control Room Van had been received alleging that on intervening night of 13/14.1.2002 while they were detailed for duty in the PCR Van from 8 PM to 8.30 AM near Wazirabad Bridge, were collecting/demanding money from the passers on the occasion of Lohri festival and took Rs.100/- from the complainant. A Vigilance inquiry was conducted. Although the complainant refused to take any action against the staff, yet possibility of taking money could not be ruled out as the time of checking and time of incident took place were the same. The applicant and co-defaulters have submitted their replies. They had pointed that when they were checking vehicles, it was noticed that public passing through the checking point were annoyed due to checking at odd hours on the day of Lohri festival and it might be possible that someone had lodged false complaint. It is denied that Rule 6(ii) of Delhi Police (Punishment & Appeal) Rules, 1980 is ultra vires of the provisions of the Act and of the Constitution. The 'Censure' is stated to be a minor penalty. Otherwise also, Clause-2 of the Circular is not invalid. The purpose of holding inquiry is sufficient to reach the truth. The Circular only contains the guidelines for ad hoc promotion from one rank to another. Clause-2 of the said Circular provides that officers who have been awarded any major/minor penalty in the preceding five years on charges of corruption or moral turpitude or gross dereliction of duty etc., shall not be promoted for the periods specified. It is denied that the said Clause-2 is illegal.

5. The Delhi Police Act, 1978 provides the nature of penalties that can be awarded and Sub-Sections (1) and (2) of Section 21 of the same reads as under:



**“21. Powers of punishment.-** (1) Subject to the provisions of article 311 of the Constitution and the rules, the Commissioner of Police, Additional Commissioner of Police, Deputy Commissioner of Police, Additional Deputy Commissioner of Police, Principal of the Police Training College or of the Police Training School or any other officer of equivalent rank, may award to any police officer of subordinate rank any of the following punishments, namely:-

- a) dismissal;
- b) removal from service;
- c) reduction in ranks;
- d) forfeiture of approved service;
- e) reduction in pay;
- f) withholding of increment; and
- g) fine not exceeding one month's pay.

(2) Subject to the rules-

- a) any police officer specified in sub-section (1) may award the punishment of censure to any police officer of subordinate rank;
- b) the Assistant Commissioner of Police may award the punishment of censure to police officers of, or below, the rank of sub-Inspectors of Police;
- c) any police officer of, and above, the rank of Inspector may award punishment drill not exceeding fifteen days or fatigue duty or any other punitive duty to constables.”

6. Section 22 of the Act provides procedure for awarding of the penalties and it states that when any officer passes an order of awarding a punishment of dismissal, removal from service, reduction in rank, forfeiture of service, reduction in pay, withholding of increments or fine, he shall record such order or cause the same to be recorded together with the reasons therefor, in accordance with the rules.

7. In accordance with the powers conferred under Sub-Sections (1) and (2) of Section 21 of the Delhi Police Act, the Delhi Police (Punishment & Appeal) Rules, 1980 have been drawn. Rule 5 refers to the authorized punishments which have already been referred to above by us. As enumerated from Sub-Sections(1) & (2) to Section 21 of the Delhi Police Act, 'censure' is one of the said punishments. Rule-6 of the said Rules unfolds itself in the following words:



**"6. Classification of punishments and authorities competent to award them-** (i) Punishments mentioned at Serial Nos.(i) to (vii) above shall be deemed 'major punishment' [and may be awarded by an officer not below the rank of the appointing authority or above] after a regular departmental enquiry.

(ii) Punishment mentioned at Serial No.(viii) shall be called 'minor punishment' and may be awarded by the authorities specified in sub-section (i) of Section 21 of the Delhi Police Act, 1978 after serving a show cause notice giving reasonable time to the defaulter and considering his written reply as well as oral deposition, if any for which opportunity shall be afforded on request.

-----	
Authority Competent to award	Rank to whom it can be awarded
(i) Deputy Commissioner of Police and above	Inspector and below.
(ii) Assistant Commissioner of Police	Constable to Sub-Inspector

(iii) The punishment mentioned at Serial No.(ix) above may be called Orderly room punishment and shall be awarded after the defaulter has been marched and heard in Orderly Room by the Officer of and above the rank of Inspector as laid down in Section 21(3)© of the Delhi Police Act, 1978."

8. Perusal of the same clearly shows that under Sub-Rule (ii) to Rule 6, the 'censure' is a minor punishment and can be awarded by the concerned authority after issuing a show cause notice giving reasonable time to the defaulter and considering his reply as well as oral depositions, if any, for which opportunity should be afforded on request.

9. Before proceeding further, therefore, one can conveniently state that 'censure' is one of the recognized penalties and we refer with advantage to the decision of the Supreme Court in the case of **STATE OF M.P. AND ANOTHER v. I.A. QURESHI**, (1998) 9 SCC 261 wherein the Supreme Court held that censure is one of the minor penalties that can be imposed on the Government servant. While considering Rule 10 of the Madhya Pradesh Civil Services (CCA) Rules, it was observed further that it cannot be equated with warning.

10. A Full Bench of this Tribunal in OA No.1198-Chandigarh of 2004, decided on 31.8.2004 had also the occasion to consider the controversy and held

*U Ag*

-8-

that penalty of censure under CCS (CCA) Rules does not exonerate the concerned person from the charges leveled against him but is consequent to the blameworthy conduct having been proved against him. Therefore, as is apparent from the provisions of the Delhi Police Act and Delhi Police (Punishment & Appeal) Rules, 1980, 'censure' is the one of the penalties though a minor one.

11. Once, such a penalty is imposed, it can be according to the rules and instructions effect the promotion. Learned counsel appearing has very eloquently drawn our attention to the fact and contended that once the promotion is denied and is stopped for some time, in fact, it is thrusting downwards the career of a person and in effect it is reducing him in rank.

12. Learned counsel relied upon the decision of the Apex Court in the case of P.C.WADHWA v. THE UNION OF INDIA AND ANOTHER, AIR 1964 SC 423. In the cited case, P.C.Wadhwa was a member of the Indian Police Service. He was holding the rank of Assistant Superintendent of Police. He was promoted to officiate as Superintendent of Police. After he had earned one increment, he had been served with a charge-sheet but no details of unsatisfactory conduct was specified. He was reverted and persons junior to him were officiating in the senior scale. It is, in this backdrop, that the Supreme Court held that the order entailed loss of pay as well as loss of seniority and postponement of future chances of promotion. But the Supreme Court had further held that it can be done only by holding a departmental inquiry. Therefore, provisions of Article 311 of the Constitution are attracted.

13. In the present case, as would be noticed, departmental inquiry had been held and, therefore, the ratio deci dendi of the above said decision does not support the broad proposition enunciated by the applicant and if, after a departmental inquiry any such penalty was imposed, then it cannot be held that it is **thrusting downwards** the career of the applicant. This is a necessary corollary from the penalties that are awarded.





14. Pertaining to Sub-Rule (ii) to Rule 6 of Delhi Police (Punishment & Appeal) Rules, 1980, it had been contended that the 'censure' is only a minor penalty. The procedure prescribed is not in accordance with law because it only calls for the reply, and thereafter penalty of censure is awarded.

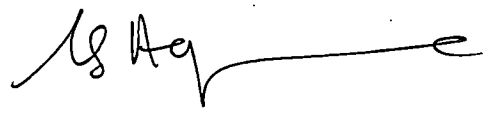
15. In this regard, we do not intend to dwell into the large number of precedents on the subject but suffice to say that principle is well settled. This has made deep in roads in our jurisprudence. But before any penalty in departmental proceedings can be awarded, the law clearly prescribes that a reasonable opportunity to be heard against the charges has to be granted. We refer with advantage to only two decisions on the subject. A Constitution Bench in the case of MANAGING DIRECTOR, ECIL, HYDERABAD AND OTHERS v. B. KARUNAKAR AND OTHERS, (1993) 4 SCC 727 held:

“28. The position in law can also be looked at from a slightly different angle. Article 311(2) says that the employee shall be given a “reasonable opportunity of being heard in respect of the charges against him.”.....”

16. A few years later, in the case of STATE BANK OF PATIALA & ORS. v. S.K.SHARMA, JT 1996 (3) SC 722, the Supreme Court again reiterated that reasonable opportunity has to be granted and thereupon weighed as to the test of prejudice. In case there is any departure from it and if prejudice is caused, in that event it would be fatal in the disciplinary proceedings.

17. We have already reproduced above Rule 6(ii) of Delhi Police (Punishment & Appeal) Rules, 1980. Perusal of the same clearly shows that it does not make a departure from leading evidence. It clearly provides that after a show cause notice, a reply has to be considered along with oral deposition, if any, for which opportunity has to be afforded on request. In other words, the alleged delinquent can always seek opportunity to lead the evidence which is not being denied as per the Rules.

18. If a person does not avail of the opportunity, he cannot assail the order or contend that opportunity was not granted. The procedure prescribed, therefore, is



is reasonable and fair. A Bench of this Tribunal, in OA No.2729/2001 entitled **SURENDER KUMAR SAND v. LT. GOVERNOR OF DELHI & OTHERS.** decided on 24.2.2003 had considered the said controversy and held that Rule 6(ii) referred to above is valid.

19. We find ourselves in agreement with the same. However, while upholding the validity of Rule 6(ii) of the Rules referred to above, a word of caution must be stated. Though the said Rule provides a summary procedure as compared to the detailed departmental proceedings under Rule 16 but it cannot be used so as to impose penalties which may otherwise not be permissible. Doctrine of lifting the veil will come into play. If a smokescreen appears as would be seen from the individual cases to keep away the truth, in the background or any such fact is noticed, the Tribunal would tear off the mask and would see the real face of the transaction.

20. Another limb of the argument advanced was that Standing Order No.265 had been issued. In accordance with the same, two lists of persons suspected to be of doubtful integrity are prepared: one is 'Agreed List' and the other is 'Secret List'. According to the learned counsel, in accordance with the said Standing Order, an official who is awarded minor penalty on charges involving lack of integrity, moral turpitude in pursuance of major penalty proceedings, their names are entered in the 'Secret List' of doubtful integrity. He urged further that a Circular dated 9.12.2003 has been issued as a result of which persons who have been awarded major/minor penalty in preceding five years on charges of corruption or moral turpitude or gross dereliction of duty, shall not be promoted for the period referred to above. According to the learned counsel, the said Clause of the Circular is totally contrary to the Standing Order No.265.

21. To appreciate the said contention, we refer with advantage to Paragraph-6 of the Standing Order whereby Secret List of persons of doubtful integrity is drawn:

**"6. SECRET LIST OF DOUBTFUL INTEGRITY**

*U Ag e*

It will include the names of officers falling under one or more of the following categories:

- i) Officials convicted in a Court of law on the charge of lack of integrity or for an offence involving moral turpitude but due to exceptional circumstances, penalty other than that of dismissal, removal or compulsory retirement is imposed upon them.
- ii) Officials who are awarded a major penalty departmentally in one of the following cases:
  - a) On charges of lack of integrity.
  - b) On charges of gross dereliction of duty in protecting the interest of Govt. although the corrupt motive may not be capable of proof.
- iii) Officials who were prosecuted but acquitted on technical grounds, though on the basis of evidence led in the trial a reasonable suspicion against their integrity is raised, or who were dealt with departmentally but exonerated on technical grounds/winning over of the witnesses.
- iv) Officials who are awarded minor penalty on charges involving specific charges of lack of integrity moral turpitude pursuant to major penalty proceedings.
- v) The name on Secret List, shall be brought from the date of punishment order/date of conviction in Court trials."

**(Emphasis added)**

20. The Circular referred to above dated 9.12.2003, also deals with this particular controversy in another fashion and Clauses-2 to 4 read as under:

"2. Officers/men who have been awarded any major/minor punishment in the preceding 5 years on charges of corruption or moral turpitude or gross dereliction of duty to protect government property or major punishment within two years on charges of administrative lapses, from the date of consideration shall not be promoted.

3. Officers/men who have been awarded censure during the last six months will not be considered fit for ad-hoc promotion. However, their ad-hoc promotion may be considered after the expiry of six months from the date of imposition of punishment of censure provided that his counter parts are continuing on ad-hoc basis.

4. Officers/men whose names exist on Secret List of person of doubtful integrity will not be promoted in terms of the provisions contained in Standing Order No.265/2000."

ls Ag e

21. As one glances through this Circular as well as the Standing Order, it is obvious that though at first blush, one may get impression that the Circular is not in line but on closer scrutiny, it cannot be held to be so. A clear distinction has been drawn between the persons who have been awarded a censure, simplicitor or a minor penalty on grounds of corruption or moral turpitude. We have already referred to above the relevant provisions which show that 'censure' is one of the minor penalties awarded. It goes with the facts and circumstances of each case as to whether 'censure' has to be awarded or not. 'Censure' can even be awarded in cases where there is a moral turpitude involved which is a fact within the domain of the disciplinary/appellate authority as per the Rules. Therefore, merely because in the Standing Order it has been provided that the officials who are awarded minor penalties on charges of doubtful or lack of integrity in pursuance of the major penalty proceedings, it cannot be contended that Clause-2 of the Circular must be held to be invalid. This is for the reason that as per Clause-4, officers whose names exist on Secret List of person of doubtful integrity, will not be promoted in terms of the provisions contained in the said Standing Order No.265/2000. But if a person has been awarded minor penalty involving moral turpitude and he is debarred from considering for promotion for five years, we find nothing illegal in this regard. This is, of course, subject to what we have referred to above that this should not be done as a camouflage. Where there is no material or to avoid a departmental inquiry, such a minor penalty is awarded or any such event that may come to the notice of the Tribunal, such a censure as such is not called for.

22. Reliance on behalf of the applicants had further been placed on the decision of the *Kerala High Court* in the case of **KUNHIKANNAN NAMBIAR v. GOVERNMENT OF KERALA**, 2002 (3) ATJ 354. Perusal of the said decision would clearly show that the *Kerala High Court* found that it was a matter of complicated facts and, therefore, the interference by the High Court had been

ls Ag \_\_\_\_\_

called for. That is not the position in the present case. Therefore, the cited decision is distinguishable.

23. Having set-forth the basic principles which were common to all, we revert back to the individual cases.

24. In OA No.422/2004 (Prakash Chand v. Govt. of NCT of Delhi), we have already referred to the basic facts that a complaint was received on telephone No.100 against the staff of the PCR Van including the applicant that they were demanded an illegal gratification from passers on account of Lorhi celebrations. A vigilance inquiry was conducted and the complainant refused for any further action. The department felt that possibility of taking money could not be ruled out as the time of checking and time of incident took place were the same. The conduct of the applicant was censured. These facts clearly show that there was no evidence on the record even in the vigilance inquiry. It was totally on presumptions supported by 'no evidence' that such a penalty was awarded. Therefore, it appears that in the present case the penalty has been awarded for which there was a little material to support. It is totally based on 'no evidence' and the same cannot be sustained.

**O.A.NO.420/2004:**

25. In the present petition, the same applicant as in the OA 422/2004, seeks quashing of the order of 1.1.2004 on the ground that he has been declared unfit for promotion. Keeping in view the order that is passed in OA 422/2004, it is for the respondents to consider the claim of the applicant in accordance with law.

**O.A.No.1435/2003:**

26. In this application, the applicant is a Sub-Inspector in Delhi Police. A show cause notice was issued to him by the Additional Commissioner of Police with the following assertions:

"The Dist. Vigilance enquiry conducted in connection with press clipping of "Hindustan Times" dt. 13.6.2001 heading Girls gang as police debated jurisdiction



reveals that on 15.4.2001 the victim i.e. Radha aged about 16 years had gone to Paschim Vihar along with her relative Kamla for domestic help but did not come back. After two days i.e. on 17.4.2001 Kamla returned back. Sh. Khem Bhadur, R/o C-289, Madi Pur, J.J. Colony father of Kamla went to PP Madi Pur along with his wife and Kamla where they met ASI Mohd. Amin, No.1489/D who took them to SI Jitender Kumar No.D/733 the then Incharge PP Madi Pur. They advised them to make complaint regarding missing of his daughter in PS Paschim Vihar as his daughter had gone to P. Vihar. On this Sh. Bhadur went to PS Paschim Vihar on 21.4.2001 where Duty Officer W/ASI Lata Singh, No.67/D also refused to lodge any report and directed him to lodge his report in PS Punjabi Bagh. Thus, it has been established the above-mentioned police personnel of PS Paschim Vihar and Punjabi Bagh did not register the case over jurisdiction matter.

2. The above act on the part of SI Jitender Kumar No.D/733, ASI Mohd. Amin, No.1489/D W/ASI Lata Singh, NO.67/D amounts to negligence, carelessness and dereliction in the discharge of his official duty.

3. They are, therefore, called upon to show cause as to why their conduct should not be censured for their above said lapse. Their written reply, if any, should reach this office within 15 days from the date of receipt of this notice, failing which it will be presumed that they have nothing to say in their defense and ex-parte orders will be passed on merits."

27. On consideration of the reply, his conduct has been censured. It was alleged that the charge or the assertions against the applicant was that he did not get the case registered and this act amounted to negligence, carelessness and dereliction of duty in discharge of his official duties. Perusal of the orders passed by the disciplinary authority as well as the appellate authority show that a vigilance inquiry had been conducted. The record reveals that complainant did not identify the applicant.

28. The precise argument was that copy of no such enquiry report was supplied to the applicant on the basis of which his conduct has been censured. In the notice to show cause, there is no reference of any such inquiry. Therefore, the applicant could not even ask for a copy of the same. It was not mentioned that any such vigilance inquiry had been held nor the applicant in that background

LS Ag e

97

-15-

could lead any evidence and ask for it, particularly when it transpired that the complainant had not identified him. This argument cannot be ignored.

29. Keeping in view the findings, we are not dwelling into the other arguments that the appellate authority had held him responsible which was not a part of the show cause notice.

30. In face of the aforesaid, it is directed that from the stage the said show cause notice was served, a fresh proceedings may take place and applicant may be permitted to file a fresh reply. Keeping in view the time that has now expired, the disciplinary authority can proceed from that stage in accordance with law.

**O.A.No.1712/2003:**

31. Applicant (Krishan Pal) is Head Constable in Delhi Police. The allegations against him were that on 10.11.1997 a surprise check was conducted. It was found that applicant along with others stopped the truck near Korhi Colony. On seeing the Gipsy of the Additional Commissioner of Police, they started their PCR van and ran towards the GTB Hospital. During the chase, the statement of the driver of the truck could not be recorded. The inquiry officer had supported the report that there is no prima facie evidence against the applicant.

32. Perusal of the record reveals that he challenges the order of censure dated 21.9.1998. Admittedly, he did not prefer any appeal against that order. Applicant seeks to condone the delay contending that he had not filed any appeal against the order due to domestic problem and because he was advised that the penalty of censure was only a minor penalty, postponing his promotion only for six months, i.e., upto 4.10.2002. Thus, he has been found unfit for promotion. He has filed a representation. The same had been disposed of to be barred by time. The applicant seeks condonation of delay in filing of the application.

33. It hardly needs overemphasizing that the application must explain just and sufficient grounds for condonation of delay. Admittedly, the applicant did not challenge the order of censure against him. Merely because, he felt that it was a minor penalty which would affect his career for promotion only for a period of

LS Ag

six months is no ground to conclude that it is a good ground to condone the delay. Every person is supposed to be aware of the provisions of law. The representation even was filed after years of penalty that had been awarded. The decision rendered by the Supreme Court in the case of AJAIB SINGH v. THE SIRHIND COOPERATIVE MARKETING-CUM-PROCESSING SERVICE SOCIETY LTD. AND ANR., JT 1999 (3) SC 38 does not in so many words hold that any application can be filed at any time. The applicant cannot thus get the benefit of the ratio of that decision. There is no ground thus to condone the delay. Resultantly, the application as such must fail and is dismissed.

**O.A.No.1717/2003:**

34. For the reasons already recorded in the earlier application filed by the applicant, the present application must also be held to be barred by time. Once the order of censure has become final, it will be given its due effect and if the applicant's name is not considered for promotion in accordance with the Standing Orders and the Circular, the same is in accordance with law because as already held in OA No.1712/2003, the order imposing penalty on him requires no interference. The application must fail and is accordingly dismissed.

**O.A.No.3072/2003:**

35. Applicant (Rajinder Paul) had been served with a notice to show cause on the ground that on a secret information received from the Headquarters of the Vigilance, an enquiry was conducted into the allegations of trading of liquor in the area of Police Station, Inder Puri. A large number of persons were found carrying the business of illicit liquor. This could not have been done without the connivance of the local police. The Inspector (Raj Pal) did not have effective control over the Division and Beat Staff. His reply was not found to be satisfactory and his conduct in this regard was censured. The applicant on 23.9.2002 asked for a copy of the report of the inquiry that was conducted on the allegations, the same was not supplied to him.

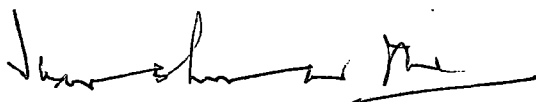
*As Ag*



29

-17-

36. Since the inquiry report is being relied upon while censuring the conduct of the applicant, in all fairness, copy of the same should be given otherwise it tantamounts to not giving a reasonable opportunity to the concerned person. Therefore, the impugned orders cannot be sustained and therefore, they are quashed. It is directed that the copy of the inquiry report which is relied upon should be supplied to the applicant and thereafter proceedings may, if deemed appropriate, proceed in accordance with law.



(Sarweshwar Jha)  
Member (A)



(V.S. Aggarwal)  
Chairman

/NSN/