

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A No.100/81/2013

New Delhi this the 29th day of August, 2016

Hon'ble Mr. Justice M. S. Sullar, Member (J)

Hon'ble Mr. K.N. Shrivastava, Member (A)

H.S.P. Singh

S/o Late Shri Deedar Singh

R/o E-19, IInd Floor,

Prashant Vihar,

Rohini, Delhi.

..Applicant

(Argued by: Shri M.K. Bhardwaj, Advocate)

Versus

Govt. of NCT & Others Through

1. The Commissioner of Police,
Police HQ, I.P.Estate, New Delhi.
2. The Joint Commissioner of Police,
South Western Range,
MSO Building,
I.P. Estate,
New Delhi.
3. The Deputy Commissioner of Police,
West District,
New Delhi. Respondents

(By Advocate: Mrs. P.K. Gupta)

ORDER (ORAL)

Justice M.S. Sullar, Member (J)

Applicant, Inspector H.S.P. Singh (SHO), has directed the instant Original Application (OA), challenging the impugned Show Cause Notice (SCN) dated 18.05.2012 (Annexure A-3), impugned orders dated 27.06.2012 (Annexure A-1) of the Disciplinary Authority (DA) and dated

19.12.2012 (Annexure A-2) of the Appellate Authority (AA), invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985.

2. The crux of the facts & material, relevant for deciding the instant Original Application (OA), and emanating from the record, is that, the applicant was working as SHO, PS Janak Puri, New Delhi. During the period of his posting, many vehicles were stolen, but he (applicant) did not promptly take any action and considerably delayed the registration of the FIRs/Criminal cases, in the Police Station. Thus, he was stated to have committed misconduct, during the course of his employment. As a consequence thereof, he was served with impugned notice dated 18.05.2012 (Annexure A-3) to show cause as to why his conduct be not Censured. In pursuance thereof, he filed the reply dated 06.06.2012 (Annexure A-4).

3. Taking into consideration, the allegations of misconduct and considering his unsatisfactory reply, the conduct of the applicant was Censured, vide impugned order dated 27.06.2012 (Annexure A-1) by the DA. Similarly, the appeal filed by him was also dismissed by means of impugned order dated 19.12.2012 (Annexure A-2) by the AA.

4. Aggrieved thereby, the applicant has preferred the instant OA, challenging the impugned SCN and orders in the manner indicated hereinabove.

5. According to the applicant, the entire action of the respondents in punishing him is not only violative of the Department's circular dated 24.07.2001, but also discriminatory vis-à-vis other similarly placed persons, namely, Inspectors Jagat Singh, Sunder Singh, SHO, Rajouri Garden, Rajesh Kumar, SHO, Madi Pur and Jai Singh, SHO Nihal Vihar. They were also issued SCNs and were let off after issuing only warnings, whereas applicant was punished on pick and choose basis. It was alleged that the DA as well as AA failed to consider the fact that applicant was not at all responsible for the delay in registration of FIRs. In fact, the delay occurred as the complainants did not give their statements to the IOs. They (complainants) were either searching their respective vehicles on their own or they left the police station for one reason or the other. As and when they gave statements to the IOs, the cases were registered. The applicant never allowed subordinate staff to delay in registration of FIRs.

6. Moreover, there was no ill motive on the part of the applicant. Not a single complainant has come forward to say the applicant had caused delay in registering the FIRs. DA and AA have ignored this aspect of the matter and violated the provisions of Articles 14 and 16 of the Constitution of India.

7. The case of the applicant further proceeds that even negligence or inefficiency on his part cannot be said to be a misconduct, warranting issuing of SCN. The impugned SCN and orders were termed to be discriminatory, arbitrary, illegal, mala fide, unjustified, un-reasonable, in violation of, principles of natural justice and statutory rules. On the strength of the aforesaid grounds, the applicant has sought quashing of the impugned SCN and orders in the manner indicated hereinabove.

8. The contesting respondents, refuted the claim of the applicant and filed their reply, wherein it has been pleaded that the SCN was rightly issued for misconduct to the applicant to which he has filed his reply. The DA had perused the reply of the applicant and also heard him in Orderly Room (OR). His written as well as oral submissions were not acceptable. The DA had also seen the DDR entries regarding PCR calls about the theft of the vehicles which are as under:-

FIR No. & Date	DD No. & Date	Delay in Days
0005/12 dated 6.1.2012	22-A dated 1.1.2012	05
0016/12 dated 20.01.2012	11-A dated 15.1.2012 (date of theft 14.1.2012)	06
0017/12 dated 21.01.2012	15-A dated 15.1.2012 (date of theft 14.1.2012)	07
0018/12 dated 22.01.2012	16-B dated 17.1.2012 (date of theft 16.1.2012)	06
0021/12 dated 23.01.2012	14-A dated 18.1.2012 (date of theft 17.1.2012)	06
0025/12 dated 30.01.2012	12-A dated 25.1.2012 (date of theft 24.1.2012)	06

9. According to the respondents, the cases should have been registered as and when calls were received in the Police Station about the theft of the vehicles, but the same was not done in the above mentioned cases. It was the duty of the applicant (SHO) to inspect the PCR calls register and get the FIRs registered. In spite of repeated instructions, there was an inordinate delay in the registration of the above FIRs.

10. Virtually acknowledging the factual matrix and reiterating the validity of the impugned SCN and orders, the respondents have stoutly denied all other allegations and grounds contained in the OA and prayed for its dismissal.

11. Controverting the pleadings in the reply and reiterating the grounds contained in the OA, the applicant filed his rejoinder. That is how we are seized of the matter.

12. Having heard the learned counsel for the parties and after having gone through the relevant record with their valuable assistance, legal provisions and considering the entire matter, we are of the firm opinion that there is no merit and the instant OA deserves to be dismissed for the reasons mentioned hereinbelow.

13. As is evident from the record, that applicant being the SHO, had utterly failed to supervise and check the considerable delay taking place in registration of MVT cases. A mere perusal of the records and the table in para (8),

would reveal that the vehicle was stolen on 01.01.2012 and DD No.22A was recorded but FIR No.0005/2012 was registered on 06.01.2012. In the same sequence, vehicle was stolen on 14.01.2012 and DD No.11A dated 15.01.2012 was recorded but FIR No.0016 was registered on 20.01.2012, similarly vehicle was stolen on 14.01.2012 and DD No.15A dated 15.1.2012 was recorded but FIR No.0016 was registered on 21.01.2012, vehicle was stolen on 16.01.2012 and DD No.16B dated 17.01.2012 was recorded but FIR No.0018 was registered on 22.01.2012, vehicle was stolen on 17.01.2012 and DD No.14A dated 18.01.2012 was recorded but FIR No.0021 was registered on 23.01.2012 and vehicle was stolen on 24.01.2012 and DD No.12A dated 25.01.2012 was recorded but FIR No.0021 was registered on 30.01.2012. This shows lack of devotion to duty by the applicant.

14. Ex-facie, the main argument of learned counsel that the since the delay has occurred, on account of conduct of the complainants, as they did not come forward to lodge the FIR in Police Station, so the applicant was not at fault, and his conduct cannot be Censured, is not only devoid of merit but misplaced as well. It is not a matter of dispute that in the instant case, as per list generated by Crime & Criminal System, the thefts of vehicles were taking place under the jurisdiction of the applicant (SHO), whereas FIRs were delayed considerably in the manner stated hereinabove. The

presence of complainants was not at all required at the time of registration of the FIRs in cognizable offence cases.

15. At the same time, Clause (II) of the Standing Order No.239 of Delhi Police Department postulates, that the SHO shall act as a guiding and controlling officer and has the power and responsibility to direct his subordinate to investigate the case. He is required to ensure proper performance of duty by the Duty Officer (DO), which is totally lacking on the part of the applicant in the present case.

16. The matter did not rest there. Chapter XII of the Criminal Procedure Code (for short "Cr.PC") deals with the information to the incharge of police station and their powers to investigate. Moreover, as per the First Schedule Cr.PC, all the relevant offences relatable to the property, contained in Chapter XVII, are cognizable and non-bailable. Further, Section 154 of Cr.PC envisages, that every information relating to the commission of cognizable offence, if given orally to an officer in charge of a Police Station, shall be reduced to writing by him or under his direction, and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer, in such form, as the State Government may prescribe in this behalf. Section

156 empowers the police officer's to investigate cognizable offences.

17. Sequelly, Section 157 Cr.PC posits that if, from information received or otherwise, an officer in charge of a police station, has reason to suspect the commission of an offence, which he is empowered under Section 156 to investigate, he shall forthwith send a report of the same to a Magistrate, empowered to take cognizance of such offence upon a police report and shall proceed in person, **or shall depute one of his subordinate officers to proceed**, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender.

18. Likewise, Standing Order No. 145 dated 12.03.1980 issued with the approval of Commissioner of Police, Delhi, postulates that it is not necessary that the information must be given by the person aggrieved by the commission of the offence, himself. It is also not necessary that the information should be given by a person having first hand information of the commission of the offence so long as the person giving it undertakes to bear the responsibility for it. As soon as the information is given, it should be recorded without waiting for the appearance of the aggrieved party. It also follows that once the information given and the police machinery has been

set in motion, there can be no withdrawal by the aggrieved party.

19. A conjoint and meaningful reading of these provisions would reveal that SHO has the statutory responsibility to supervise and take effective steps to ensure the prompt registration of FIR in cognizable offences, which he has utterly failed to do so, in the present case despite clear instructions, issued by the Additional Commissioner of Police, to immediately register FIR in cognizable cases, as soon as information is received of commission of such serious offences. The Reliance in this regard can be placed to the judgments of Tribunal in OA Nos.4134/2013 titled as ***Inspector Vijendra Pal Vs. GNCT of Delhi and Others*** decided on 01.07.2015 and ***OA*** bearing ***No. 3014/2013*** titled as ***Mahesh Chand Meena Vs. Commissioner of Police and Others*** decided on 26.08.2016. Therefore, the ratio of law laid down in the aforesaid judgments is *mutatis mutandis* applicable to the facts of case and is a complete answer to the problem in hand.

20. Meaning thereby, as soon as such information regarding occurrence of a cognizable offence within the limits of his

Police Station was received, it was the mandatory duty of the officer incharge of the Police Station to register an FIR and investigate the case. Hence, it was the statutory duty of the SHO to immediately register a cognizable case of MVT and to promptly enquire and investigate it. The presence of the complainant was not at all essential at the time of registration of the case in a cognizable offence, as contrary pleaded and urged on behalf of the applicant.

21. Therefore, we are of the view that the applicant has miserably failed to supervise the prompt registration of cognizable offence of MVT cases, and violated the clause II of Standing Order No.239 and Standing Order No.145 of Delhi Police. Indeed it amounts to grave misconduct and dereliction of duty.

22. There is yet another important aspect of the matter which can be viewed from an entirely different angle. As mentioned hereinabove, the conduct of the applicant was sought to be Censured only on the ground of lack of supervision and not issuing proper instruction to his subordinate staff to maintain law and order in his area. He, being the SHO, is supposed to be more vigilant and to supervise the registration of MVT cases promptly as he was the overall incharge of the Police Station at the relevant time, in order to avoid possibility of any commission of heinous

offences of robbery or dacoity etc. or even of terrorist attack utilising the stolen vehicles.

23. Therefore, once information is received and pointed DDRs were recorded in the Police Station, it was for the applicant (SHO) to ensure that FIRs were registered promptly and investigations started at the earliest. The applicant was not supposed to wait for the arrival of the complainants to lodge the complaints in such cognizable offence cases. The SHO of the Police Station need to be conscious of the fact that any crime committed within its jurisdiction is not a civil wrong but a wrong committed against the State and being the representative of the State, it is his duty to handle and curb the same instantly than to wait for victims to wake up and raise their wail for justice.

24. Hon'ble Apex Court in case ***Lalita Kumari Vs. Government of Uttar Pradesh and Others (2014) 2 SCC 1***, has ruled, that the object sought to be achieved by registering the earliest information as FIR is, inter-alia, twofold: (i) that the criminal process is set in motion and is well documented from the very start and (ii) that the earliest information received in relation to the commission of a cognizable offence is recorded so that there cannot be any embellishment etc. The Cr.PC contemplates two kinds of FIR (i) duly signed FIR u/s 154(1) and (ii) the FIR lodged on any information u/s

157 (1) and both types of the information should be duly reported and sent to Magistrate.

25. Not only that, the applicant has not even initiated any action against the subordinate staff for their lapse. Had the applicant taken/recommended any action against the concerned staff of his Police Station for delay in registration of FIR and proceeding to investigate the matter, he could have been absolved of his liability. Since the applicant has neither recommended any action against them nor himself had registered the FIRs with alacrity, the presumption is that he countenanced their action and accepted the inaction on their part as well. Indeed such acceptance amounts to supervisory lapse.

26. To buttress his allegation of discrimination by the DA towards him, the applicant has placed reliance on an order of this Tribunal dated 18.02.2013 in **OA No. 2396/2012**. As per the factual matrix of that case, the DCP (E) had held meetings on 09.10.2009 and 15.10.2009, directed all SHOs to ensure fool-proof security arrangements in their respective market areas and not to allow any encroachment by the shopkeepers outside their shops. The DCP (East Delhi) had visited Vikas Marg on 15.10.2009 and noticed that the shopkeepers had put their wares outside the shops and encroached on public land and moreover, there were a large number of Rehri Patris parked on the road side and there was no meaningful

checking going on, so the impugned SCNs were issued to the SHOs (therein).

27. Taking into consideration the replies of Inspectors Sanjay Drall and Vijay Kumar, the authority advised them to be careful in future. So on the peculiar facts and in the special circumstances of that case, it was observed that reply filed by the applicant Ved Bhushan (therein) was held to be plausible and it was observed that the respondents had discriminated against Inspectors Sanjay Drall and Vijay Kumar.

28. There can hardly be any dispute with regard to the aforesaid observation, but the same would not come to the rescue of the applicant because in the instant case, specific allegations are assigned to applicant that although the indicated DDRs were recorded with regard to the theft of motor vehicles, but he failed to promptly register and investigate the cases and to send the report to the Magistrate in such cognizable offence cases. Therefore, the applicant's plea of discrimination is not at all sustainable, in the present case, particularly when it is now well settled proposition of law that each case has to be decided on its own facts and circumstances. Hence, the contrary arguments of learned counsel, "*stricto-sensu*" deserve to be and are hereby repelled, under the present set of circumstances.

29. The last contention of the learned counsel for the applicant was that the reply of the applicant was not considered by DA and AA before passing their impugned orders. It was also submitted that the impugned orders are speaking orders. In this regard, it is observed, that all the relevant issues raised by the applicant in his reply, were duly considered and negated by the DA, while passing the impugned order dated 27.06.2012 (Annexure A-2). The order reads as under:-

“A Show Cause Notice for Censure was issued to Inspr. HSP Singh No.D-1/902 vide this office No.8374/P-III/West dated 18.05.2012 on the allegation that as per list generated by Crime and Criminal System, the cases of Motor Vehicles Theft were registered at PS Janak Puri for the period 01.01.2012 to 28.02.2012 but the following cases were registered in this PS after delay of more than 4 days between the date of theft and date of registration of FIR:-

<u>FIR No.</u>	<u>Delay in days</u>
0005	05
0016	06
0017	07
0018	06
0021	06
0025	06

I have perused the his reply and also heard in OR. His written as well as oral submission are not acceptable. I have also seen the DD entries regarding PCR calls about the theft of vehicles which are as under:-

FIR No. & Date	DD No. & Date	Delay in Days
0005/12 dated 6.1.2012	22-A dated 1.1.2012	05
0016/12 dated 20.01.2012	11-A dated 15.1.2012 (date of theft 14.1.2012)	06
0017/12 dated 21.01.2012	15-A dated 15.1.2012 (date of theft 14.1.2012)	07
0018/12 dated 22.01.2012	16-B dated 17.1.2012 (date of theft 16.1.2012)	06
0021/12 dated 23.01.2012	14-A dated 18.1.2012 (date of theft 17.1.2012)	06

0025/12 dated 30.01.2012	12-A dated 25.1.2012 (date of theft 24.1.2012)	06
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The case should have been registered as and when call/complaint was received in the police station about the theft of the vehicle but the same was not done in the above mentioned cases. It is the duty of the SHO to inspect PCR calls register continuously and get the needful done. In spite of repeated instructions, there was an inordinate delay in registration of all the above FIRs. Since the reply is not satisfactory, hence the show cause notice issued to Inspector H.S.P. Singh NO.D-I/902 (SHO/Janak Puri) is confirmed and his conduct is hereby **censured**.

Let a copy of this order be given to them free of cost. They can file an appeal against this order to the Joint C.P./Northern Range, Delhi within 30 days from the date of its receipt on non-judicial stamp paper valued 00.75 paise by enclosing a copy of this order, if they so desire.”

30. As seen from the order (Annexure A-2), the DA had analysed the material on record in the right perspective. Not only that, the matter was again re-examined by the AA, who has correctly dismissed the appeal of the applicant, vide impugned order (Annexure A-1).

31. Therefore, we hold that the DA and AA have considered all the materials available on record and recorded cogent reasons in their orders before arriving at the decision. Thus we, do not find any illegality, irregularity or any perversity in the impugned orders. As such, no interference is warranted in the impugned orders by this Tribunal in the obtaining circumstances of the case, in view of law laid down by the Hon’ble Apex Court in cases of **B.C. Chaturvedi Vs. U.O.I. & Others AIR 1996 SC 484** and **K.L. Shinde v. State of Mysore, (1976) 3 SCC 76**.

32. No other point, worth consideration, has either been urged or pressed by the learned counsel for the parties.

33. In the light of the aforesaid reason, we find that there is no merit, and the instant OA deserves to be and is hereby dismissed, as such. However, parties are left to bear their own costs.

(K.N. SHRIVASTAVA)
MEMBER (A)
29.08.2016

(JUSTICE M.S. SULLAR)
MEMBER (J)
29.08.2016

Rakesh