Central Administrative Tribunal
Principal Bench:New Delhi

OA No.593/2014

Reserved on : 23.07.2015.

Pronounced on:02.12.2015

Hon'ble Shri Sudhir Kumar, Member (A)
Hon'ble Shri Raj Vir Sharma, Member (J)

Virender Singh,Inspr.No.D/3040,
S/o Shri Ratan Singh
R/o A-2/58, Ist Floor,
Janakpuri, New Delhi. …Applicant.

(By Advocate:Shri K.K.Kaushik)

Versus

1. Govt. of N.C.T. of Delhi,
Through Commissioner of Police,
Delhi, MSO Building (PHQ)L
I.P.Estate, New Delhi-110002.

2. The Deputy Commissioner of Police,
West District, Rajauri Garden,
New Delhi.

3. The Joint Commissioner of Police,
South Western Range,
MSO Building (PHQ)L
I.P.Estate, New Delhi-110002. …Respondents.

(By Advocate:Shri K.M.Singh)

ORDER

Per Sudhir Kumar, Member (A):

The applicant of this OA is before this Tribunal, praying for quashing/setting aside of the impugned orders dated 20.07.2012 Annexure A-1, and 15.02.2013 Annexure A-2 passed by his Disciplinary and Appellate Authorities respectively.

2. The case of the applicant is that he was issued a Show Cause Notice for Censure, dated 18.05.2012, through Annexure A-3, proposing that for

the period from 01.01.2012 to 28.02.2012, seven cases of motor vehicle thefts were registered in the Police Station, Punjab Bagh, but after a delay of more than four days between the date of the thefts and the date of registration of the cases, leading to FIRs, giving details of the number of delays from 5 to 12 days in respect of those cases.

3. The applicant submitted his reply to the said Show Cause Notice through Annexure R-4 dated 06.06.2012. After considering his reply, the impugned order Annexure A-1, imposing a punishment of Censure was confirmed. The applicant thereafter filed an appeal against the said penalty of Censure before the Joint Commissioner of Police on 08.08.2013, but through order dated 15.02.2013, the Appellate Authority rejected his appeal, stating that the officer could not give any cogent reason for delayed registration of cases, and being SHO of the Police Station, he ought to have monitored the work of the I.Os, and got the cases registered on the same date. It was further observed that non-registration of vehicle theft cases immediately is a serious delinquence, because the vehicle could have been used in any crime, and, therefore, the Appellate Authority was of the opinion that the Disciplinary Authority has rightly weighed the punishment.

4. The ground taken by the applicant in assailing the impugned orders is that they are illegal, arbitrary, malafide, passed without any application of mind independently and objectively, and are also against the principles of natural justice. He has also taken the ground that all the 7 concerned cases, as mentioned in the Show Cause Notice issued to him, were duly booked without the least delay, as and when the written complaint was received, and lodging of FIR is neither possible nor feasible unless information relating to the commission of a cognizable offence is received orally or in writing by

the police officer, and if the complainants were themselves not willing, and set off for distant places in connection with their work, the complaints could not be registered, especially for want of full particulars of the stolen vehicles and the individual/complainant, so that a fool-proof case could be built up for trial and logical conclusion. He has taken the further ground that the impugned orders were passed on the basis of administrative instructions, and the legal and civil rights of an individual cannot be sacrificed at the altar of administrative convenience, in as much as convenience and justice are often not on the speaking terms.

5. The applicant has taken the ground that if a decision is taken without any principles or without any rule, the same is unpredictable, and such a decision or order passed is the antithesis of a decision taken in accordance with the rule of law. He has taken the further ground that a final order passed which contains reasons for the conclusions arrived at, imparts clarity, and excludes arbitrariness, which has not happened in this case. He had further taken the ground that even imposition of a minor penalty is a quasi judicial function, requiring judicial approach, and the authorities should not be pre-determined, and should not have passed a non-speaking and sketchy order, as has happened in his case. He has taken the further ground that mere delay in lodging the FIR is not necessarily fatal to the case of prosecution, as an FIR under Section 154 Cr.P.C. is not a substantive piece of evidence, and its only use is to contradict or corroborate the matter after investigation. He has also taken the ground that the answer to the question as to whether the FIR had been lodged belatedly or not is always a question of fact, and has to be answered bearing in mind the facts of the case, and there cannot be any mathematical computation of the time taken in lodging

of the FIR, and some delay is natural, but that would not detract from the value attached to it, and a little delay is sometimes bound to be there. He had, therefore, prayed for the following reliefs:

> "i) to call for the records of the instant case and quash/set aside the impugned orders, mentioned in para-1 of this OA.
>
> ii) to award the cost in favour of applicant & ;
> iii) to pass any other order(s) which this Hon'ble Tribunal deems just and equitable in the given facts & circumstances of the matter."

6. In the counter reply filed on 20.05.2014, the respondents explained as to how, as per list generated by the computerized Crime and Criminal System, the cases of motor vehicles thefts were found to have been registered after a delay of more than four days at the Police Station, Punjabi Bagh. After having issued a Show Cause Notice for Censure to the applicant, the Disciplinary Authority had considered the reply, and the DD Entries regarding PCR calls about the theft of vehicles, and also given the applicant an oral hearing in the Orderly Room, and found that his written as well as oral submissions were not acceptable. It was submitted that being SHO it was the duty of the applicant to inspect regularly PCR calls registered, and get the needful done, which he had not done, because of which the Show Cause Notice was confirmed, and his conduct was censured vide order dated 20.07.2012. It was submitted that in the light of the facts and circumstances of the case and the material available, even the Appellate Authority after hearing the applicant once again in the Orderly Room, had rejected his appeal.

7. It was further submitted that the non-registration of motor vehicle theft cases by the IOs only shows that the applicant as the SHO had not

properly supervised their working. The respondents, therefore, submitted that the punishment awarded to the applicant was commensurate to the gravity of misconduct and lapse. They had justified having refused to accept the explanation of the applicant that there was no inordinate delay in the registration of motor vehicle theft cases. It was submitted that once the PCR calls/complaints were received, being SHO of the Police Station, it was his bounden duty to get the cases registered immediately on his own, and had thus justified the punishment awarded to the applicant. They had submitted that non-registration of motor vehicle theft cases immediately is a serious delinquence, because the stolen vehicles could have been used in any crime, and the act of the applicant in not registering the motor vehicle theft cases timely shows that he was not cautious and vigilant towards the motor vehicle theft cases, and had flouted the directions of the seniors in this regard. It was submitted that being a supervisory officer, he should also have a kept check over the actions taken by his subordinates, which he failed to do, and to keep the staff properly under his control. More so, the applicant had failed to justify with any reasons the delay in registering the concerned motor vehicle theft cases. They had submitted that the Disciplinary Authority had no option, other than to award the punishment of Censure upon the applicant, for which, a Show Cause Notice had been issued to him, and therefore, they had justified the punishment order, as issued, and upheld by the Appellate Authority. They had, therefore, submitted that the OA may be dismissed with costs, in the interest of justice, fair play and equity.

8. The applicant filed his rejoinder on 22.07.2014, more or less reiterating his contentions, as made out in the OA. He had submitted that

the reasons given by the respondents for imposing penalty are nebulous, and the rights of an individual cannot be sacrificed at the altar of administrative convenience. It was submitted that no judicial approach was exercised by either the Disciplinary Authority, or the Appellate Authority. It was submitted that while dealing with his case, the Appellate Authority had failed to apply his own mind objectively and independently, and had not been specific about the material placed before him, when the appeal was rejected, and, therefore, the order passed by the Appellate Authority was duly unjustified. It was submitted that an FIR can be lodged only after getting the statement of the complainant, and exactly it is what was done by him, and there has been no misconduct or lapse on his part. It was submitted that the counter reply of the respondents suffers from contradictions, and it was wrong to state that he was not cautious and vigilant, and had flouted any of the directions of the seniors, as he was prompt and serious towards his job, and also there was no defiance of any directions of seniors. It was, therefore, submitted that it was wrong to state that the applicant was rightly punished and that he deserves no reliefs. It was prayed that this Tribunal may allow the reliefs, as prayed for in the OA.

9. Heard. The OA was argued more or less on the lines of pleadings, which we have already discussed in great detail.

10. It is trite law that the Courts and Tribunals cannot sit in appeal over the decisions of the Disciplinary Authorities concerned. The Supreme Court has in the case of **B C Chaturvedi** Vs. **UOI & Ors**:1995 (6) SCC 749 held that the Disciplinary Authorities are the best judges to appreciate the facts, and impose penalties, and the Courts and Tribunals should not interfere

with that, or themselves try to re-appreciate the evidence laid during the course of DE hearings.

11. In this case, we find that the applicant has been given full opportunity at every stage, before imposition of the penalty upon him. He was served a Show Cause Notice, for Censure, giving sufficient opportunity to him to file reply before imposing the penalty of Censure upon him. The Disciplinary Authority had also given a personal hearing to him in the Orderly Room, apart from considering his written submissions, and had then passed the order of Censure, confirming the Show Cause Notice issued to him.

12. The applicant's appeal was also considered by the Appellate Authority properly, and he was given an oral/personal hearing by the Appellate Authority also in the Orderly Room, and the Appellate Authority had the considered the appeal, and the written submissions of the appellant/applicant before him as not convincing, and had confirmed the order of Censure passed by the Disciplinary Authority. Therefore, we do not find that there has been any deviation from the procedure, as prescribed in the Delhi Police (Punishment & Appeal) Rules, 1980.

13. In the result, we do not find any reason or occasion to interfere with the order of punishment, of Censure, as passed by the Disciplinary Authority, as also confirmed by the Appellate Authority. The O.A., is therefore, dismissed, but there shall be no orders as to costs.

(Raj Vir Sharma)
Member (J)

(Sudhir Kumar)
Member (A)

/kdr/