

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

O.A No.100/688/2012

New Delhi this 19th day of August, 2016

**Hon'ble Mr. Justice M. S. Sullar, Member (J)
Hon'ble Mr. V.N. Gaur, Member (A)**

Jawahar Singh, D-2547
PIS No.28790627,
S/o Late Shri Mahavir Singh,
Ex. SHO P.S. Mahendra Park,
R/o B-2/74, GF Sector-16,
Rohini Delhi-85.Applicant

(Argued by: Mr. Sachin Chauhan, Advocate)

Versus

1. Govt. of NCTD through
The Commissioner of Police,
PHQ, I.P. Estate, New Delhi.
2. The Jt. Commissioner of Police,
Northern Range, through
PHQ, I. P. Estate, New Delhi.
3. The Deputy Commissioner of Police,
North-West District,
Through Commissioner of Police,
PHQ, I. P. Estate,
New Delhi.Respondents

(By Advocate : Mr. Amit Anand)

ORDER (ORAL)

Justice M.S. Sullar, Member (J)

Applicant, Inspector Jawahar Singh, (SHO) has preferred the instant Original Application (OA), challenging the impugned Show Cause Notice (SCN) dated 16.06.2010 (Annexure A-1), and orders dated 3/6.09.2010 (Annexure A-2), whereby his

conduct was Censured by the Disciplinary Authority (DA) and dated 05.12.2011 (Annexure A-3), by means of which his appeal was dismissed by the Appellate Authority (AA) as well.

2. The sum and substance of the facts and material, relevant for deciding the instant OA and emanating from the record, is that, applicant was posted as SHO of Police Station, Mahendra Park, Delhi, at the relevant time, whereas, Ct. Mohd. Akil No.1717/NW (PIS No.28891298) was working under him. Ct. Mohd. Akil was posted in beat No.6 fruit market, Azadpur Mandi. Complainant Aas Mohammad @ Ashu S/o Shri Nafees has moved a complaint dated 19.05.2010, alleging therein that constable while performing his official duty in beat No.6, has been harassing and demanding Rs.500/- as Hafta from him. The complainant in his statement reiterated that Ct. Mohd. Akil has been demanding Rs.200/250 per vehicle and Rs.500/- weekly from him and other persons in lieu of loading and unloading of goods at his shed during the apple season. On denial, Ct. Mohd. Akil has been harassing him, used abusive language and threatened to get him implicated in some false criminal case by other police officers.

3. At the same time, the applicant, who was the SHO of the concerned Police Station was stated to have failed in his supervisory duty to check the corruption and demand of bribe money by Ct. Mohd. Akil working under him.

4. As a consequence thereof, impugned notice dated 16.06.2010 (Annexure A-1) was issued to the applicant to show cause, as to why his conduct be not Censured in this relevant connection.

5. In pursuance thereof, applicant has filed the reply dated 28.06.2010 (Annexure A-4), wherein he has stated that he did not receive any complaint in the police station. During the course of enquiry by vigilance department, it revealed that except Ct. Mohd. Akil, no other police officer has demanded any bribe money and supervision of the staff detailed in Azadpur Mandi, being exercised through surprise checks by him (applicant), other Inspectors and Division Officers.

6. Taking into consideration, the seriousness of allegations and finding the reply unsatisfactory, the conduct of the applicant was Censured, vide impugned order dated 3/6.09.2010 (Annexure A-2) by the DA. Sequelly, his appeal was dismissed by order dated 05.12.2011 (Annexure A-3) by the AA.

7. Aggrieved thereby, the applicant has instituted the present OA, challenging the impugned SCN and orders, invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985.

8. The case set-up by the applicant, in brief, insofar relevant, is that, there was no misconduct on the part of the applicant for lack of supervision. All the allegations of

repeated demands of bribe money are assigned to Ct. Mohd. Akil, which were not in the knowledge of the applicant. The allegations levelled against him are vague, indefinite and bad in law. It was pleaded that the authorities have not considered the specific plea raised in his reply to the SCN. Even no complaint regarding the act of Ct. Mohd. Akil was brought to the knowledge of applicant by complainant or by supervisory officer. Applicant was on leave on 17.05.2010, when the complainant has lodged the complaint against Ct. Mohd. Akil. The authorities have not applied their mind and ignored the pleas raised by him. He cannot be punished for the demand of bribe money by Ct. Mohd. Akil. Even in the Vigilance Enquiry Report, there was no clear cut finding against Ct. Mohd. Akil in relation to the allegations levelled against him. He made frequent surprise checks, and one solitary incident cannot be a ground to impose the charge of lack of supervision on him. The applicant has listed the action taken by him in different criminal cases mentioned therein.

9. According to the applicant, the impugned SCN is vague and impugned orders are arbitrary, illegal and without jurisdiction. On the strength of the aforesaid grounds, the applicant sought quashing of the impugned SCN and orders in the manner indicated hereinabove.

10. The respondents refuted the claim of the applicant, filed the reply, wherein it was pleaded as under:-

"That the facts of the case are that a Show Cause Notice for censure was issued to Inspector Jawahar Singh, No.D/2574 (PIS No.28790627) vide this Office No.5666/HAP/NWD (P-II) dated 16.6.2010 for the allegations that one Sh. Aas Mohammad @ Ashu S/o Shri Nafees R/o F-403, Chand Bagh, Bhajapura, Delhi had lodged/moved a complaint against Ct. Mohd. Akil, No.1717/NW (PIS No.28891298) vide DD No.20 dated 17.05.2010, in Flying Squad, Vigilance Branch, Delhi which was conveyed to DCP/NWD vide memo No.F.24(89)/NW/2010/12588/HANR/Vig. Dated 19.05.2010 alleging therein that the Constable while performing duty in beat No.6, Fruit Mandi, Azad Pur, Delhi was harassing and demanding Rs.500/- as Hafta from him.

During the course of enquiry conducted by PG Cell/NWD, the complainant Aas Mohd. In his statement had stated that he was Fruits Commission Agent and running his business in the Fruit Market, Azad Pur, Delhi and a shed allotted to him by the Government is being used for unloading goods that are transported outside after paying the tax to APMC. Ct. Mohd. Akil who was posted in same beat was demanding Rs.200/250 per vehicle and Rs.500 weekly in lieu of loading and unloading of goods at his shed. On denial, Ct. Mohd. Akil started harassing him and used abusive language and threatened him to get him implicated in a false case by some other officer.

Strengthening the allegations, one Javed S/o Salim Khan (retailer) (Mashakhor) in Azadpur, Subzi Mandi R/o H.No.1259, Gali No.14, Rajiv Gandhi Nagar, Mustafabad, Delhi-110094 has also alleged that Ct. Mohd. Akil was threatening him and had taken Rs.1000/- from him during the Apple season. Also another person Mohd. Sattar [retailer (Mashakhor) in Fruit Mandi, Azadpur, Delhi, who was running business in shed No.5] s/o Shri Abdul Razzak r/o H.No.94-C, Sarai Peepal Thala, Adarsh Nagar, Delhi also supported the allegations against Ct. Mohd. Akil that he had demanded/taken money from other retailer (Mashakhor) in his presence including Aas Mohd. @ Ashu. He was working there for the last 10 years and no police man has demanded money from them except Ct. Mohd. Akil.

Inspector Jawahar Singh, SHO/Mahendra Park, the applicant, being the supervisory officer who was supposed to have impressive attitude towards his officials duties and liable to create healthy and crime free atmosphere in his respective PS area, failed to do so, therefore, the above act on his part amounts to gross misconduct, negligence, dereliction in the discharge of his official duties and unbecoming of a police officer".

11. 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.

12. Controverting the allegations of the reply filed by the respondents and reiterating the grounds contained in the OA,

the applicant filed the rejoinder. That is how we are seized of the matter.

13. Having heard the learned counsel for the parties, having gone through the record with their valuable help and after considering the entire matter, we are of the firm view that there is no merit and the present OA deserves to be dismissed, for the reasons mentioned hereinbelow.

14. Ex-facie, the argument of learned counsel that all the allegations of demand of bribe money are attributed to Ct. Mohd. Akil and since his actions were not in the knowledge of the applicant (SHO), so his conduct cannot be Censured in this regard, is neither tenable nor the observation of this Tribunal in ***Khilari Ram Meena Vs. Govt. of NCT of Delhi and Others*** in **OA No.2362/2005** decided on 17.08.2006 is at all applicable to the facts of the present case, wherein applicant (therein) was a Traffic Inspector and he was alleged to have connived with his subordinate staff while they were accepting money. A PRG team conducted a raid and found that in lieu of money, they were allowing selling of hassle free stickers to commercial vehicles for a long period of 2 months. Though the summary of allegation alleged connivance with subordinate staff, yet on examination of evidence, a charge framed against the accused was of lack of supervision over his staff. On the basis of such a finding, the DA (therein) not only on the ground of lack of supervision but also on account of

active connivance of the applicant (therein), imposed a major punishment upon him (applicant), which on appeal was affirmed.

15. Therefore, in the peculiar facts and in the special circumstances of that case, it was observed that an individual act, which amounts to an illegal action of the subordinate when not in the knowledge of the supervisory staff and is committed behind his back without any iota of common intention or the supervisor officer being hand in glove with the subordinate staff, cannot be treated to have committed the misconduct for lack of supervision. There can hardly be any dispute with regard to the aforesaid observation of this Tribunal, but the same would not come to the rescue of the applicant in the present controversy.

16. As in the instant case, it is not a matter of dispute that Ct. Mohd. Akil was deputed on beat No.6 in fruit market, Azadpur Mandi by and he was working under the direct control of the applicant, being the SHO of the concerned area. There are direct allegations against Ct. Mohd. Akil, that he has been harassing and demanding Rs.500 as Hafta from complainant and other persons since long. During the course of enquiry by vigilance department, complainant Aas Mohammad, in his statement has stated, that he is a Fruit Commission Agent and running the business in a shed allotted by the Government in the Fruit Market, Azadpur

Mandi, Delhi. He has categorically maintained that Ct. Mohd. Akil who was posted in the same beat, has been demanding Rs.200-250 per vehicle and Rs.500 weekly in lieu of loading and unloading of goods at his shed. On denial, he has been harassing him, used abusive language and threatened to get him implicated in a false criminal case by some other officer.

17. Not only that, one Javed S/o Salim Khan has also alleged that Ct. Mohd. Akil threatened him and has taken Rs.1000/- from him during the apple season. Another person Mohd. Sattar has also supported the allegation against Ct. Mohd. Akil posted at beat No.6 in Fruit Mandi and stated that he had demanded money from other retailers in his presence including Aas Mohammad. He has also maintained that no other policeman has demanded money from them except Ct. Mohd. Akil.

18. Meaning thereby, it stands proved on record, not only that Ct. Mohd. Akil was deputed and was working under the control of the applicant in beat No.6 in Fruit Market, at the same time, he has been repeatedly demanding Rs.200-250 per vehicle and Rs.500 as Hafta from the complainant Ass Mohammad, and other persons. He demanded and accepted the bribe money from Javed S/o Salim Khan, Mohd. Sattar and other persons on various occasions. If the applicant, being the SHO, had supervised and checked the area, then Ct. Mohd. Akil ought to have not dared to demand the bribe

money from the persons in the indicated manner in the Fruit Market, Azadpur Mandi, Delhi.

19. Moreover, a constable working under the direct supervision of SHO, cannot indulge in such illegal activities, without his knowledge. It was obligatory on the part of the applicant (SHO) to perform his supervisory duty, to check the staff, not to, indulge in corrupt practices and acceptance of bribe money for such a long period from different persons mentioned hereinabove. In this manner, it is highly improbable to believe that Ct. Mohd. Akil would demand and accept the bribe money from different persons on different occasions without the knowledge of SHO. Hence, the contrary argument on his behalf, "*stricto-sensu*" deserve to be and are hereby repelled, under the present set of circumstances.

20. The next submission of learned counsel that applicant while working as SHO has solved many kidnap/dacoity/serious cases, so his conduct cannot be Censured in the present circumstances, again is not tenable. It was his statutory duty to investigate the criminal cases mentioned in the OA, being SHO of the concerned police station. Hence, he cannot claim credit in this regard and indeed cannot and should not be exonerated from the lack of supervisory duty in the present case. Applicant, being the SHO, is fully responsible of the inefficiency, in-activities and misconduct in performance of the duty of all his subordinate

police officers of his police station. He has to curb such illegal activities of demand of bribe money by his subordinate staff instead of ignoring such activities. Thus the applicant cannot escape his responsibility in this relevant connection.

21. Now adverting to the last contention of the learned counsel, that his reply was not considered. In this regard, it may be added that, all the issues raised by the applicant in his reply, were duly considered and negated by the DA, while passing the impugned order dated 13.09.2010(Annexure A-2), which reads as under:-

“A Show Cause Notice for censure was issued to Insp. Jawahar Lal No. D/2574 (PIS No. 28790627) vide this office No. 5666/HAP/NWD (P-II), dated 16.6.2010 for the allegations that one Aas Mohammad @ Ashu s/o. Shri. Nafees r/o. F-403, Chand Bagh, Bhajanpura, Delhi, has lodged/moved a complaint against Const. Mohd. Akil No. 1717/NW (PIS No. 28891298) vide DD No. 20 dt. 17.05.10, flying squad, Vigilance Branch, Delhi, and conveyed to DCP/NWD vide memo No. F-24 (89)/NW/2010/12588/HA-NR/Vig. Dated 19.05.10 alleging therein that the Const. while performing duty in beat No. 6 Fruit Mandi is harassing and demanding Rs.500/- as Hafta from him.

During the course of enquiry conducted by PG Cell/NWD, the complainant Aas Mohd. in his statement had stated that he was a Fruits Commission Agent and running his business in the Fruit Market, Azad Pur, Delhi and a Shed allotted to him by the Government is being used for unloading goods that are transported outside after paying the tax to APMC. Const. Mohd. Akil who is posted in same beat was demanding Rs.200/250 per vehicle and Rs. 500/- weekly in lieu of loading and unloading of goods at his shed. On denial, Const. Mohd. Akil started harassing him and used abusive language and threatened him to get implicated in a false case by some other officer.

Strengthening the allegations, one Javed S/o. Salim Khan (retailer (Mashakhor) in Azadpur Subzi Mandi) r/o. H. No. 1259, Gali No. 14, Rajiv Gandhi Nagar, Mustafabad, Delhi-94 has also alleged that Const. Mohd. Akil was threatening him and had taken Rs.1000/- from him during the Apple season. Also another person Mohd. Sattar (retailer (Maskakhor) in fruit Mandi, Azadpur, Delhi, who is running business in shed No. 5) S/o. Sh. Abdul Razzak r/o. H. No. 94 C, Sarai Peepal Thala, Adarsh Nagar, Delhi, also supported the allegations against Const. Mohd. Akil that he had demanded /taken money from other retailers (Maskakhor) in his presence including Aas Mohd. @ Ashu. He was working there for the last ten years and no police man has demanded money from them except Constable Mohd. Akil.

Inspr. Jawahar Lal, SHO/Mahendra Park being the supervisory officer who is supposed to have impressive attitude towards his official duties and liable to create healthy and crime free atmosphere in his respective PS area, failed to do so, therefore the above act on his part amounts to gross misconduct, negligence, dereliction in the discharge of his official duties and unbecoming of a police in discharge of his official duties.

The above said Show cause notice was served upon the Inspector against his proper receipt and he submitted his reply on 29.06.2010. In his reply, he has stated that Ct. Mohd. Akil No. 1717/NW reported for duty at this police station on 2.10.2009 on creation of New Police Station. He was detailed for duty in Beat No. 6 w.e.f. 6.10.2009 and prior to the present complaint no other complaint regarding demanding and taking money from any Merchant in Fruit Mandi during the appeal season was ever received in the Police Station. The supervision over the staff detailed for duty in Mandi is being exercised through surprise checks by him, other Inspectors and Division Officers. Besides, the District Vigilance staff and Vigilance staff from PHQ and also checks surprise, the activities of the staff detailed for the duty in Subzi Mandi. He further stated that on the alleged day of the complaint dated 17.05.2010, he was on leave. As such he was not negligent and careless in discharge of his official duties and there was nothing misconduct on his part.

I have gone through the contents of SCN, reply to the SCN submitted by Inspector as well as other available record on the file. It is apparent that being SHO, he is the Chief Supervisory Officer and he is fully responsible of the efficiencies, activities, good conduct and performing of good quality duties of all the subordinates of his police station. But one of the subordinate of his police station was found indulging in a corrupt practice by pressing the innocent Merchants as confirmed during the enquiry report made by Vigilance Branch of this Distt. And the SHO is ignoring about his such illegal activities. As per the contention of the SHO, if he had checked off and on thorough (sic) surprise checks then he can easily detect Ct. Hohd. Akil for his indulging in the illegal activities mentioned above. But the SHO has failed to do so at all and also failed to exercise the effective watch/control over the illegal activities of his subordinate staff. The Inspector was also heard in orderly room on 26.08.2010. During the course of OR he did not submit any fresh and reiterated the same plea whatever he had taken in his written reply to the Show Cause Notice. As such the pleas taken by the Inspector are not acceptable. In view of the above, the show cause notice issued to him is hereby confirmed and as such his conduct is censured for his above said lapse.

Let a copy of this order be given to Inspector Jawahar Lal No.D/2574 free of cost. He can file appeal to the Joint CP/NR, Delhi, against this order within 30 days from the date of its receipt by enclosing a copy of this order, if he so desires".

22. Meaning thereby, the DA has rightly analysed the matter in the right perspective. Not only that, the matter was

again re-examined by the AA, who has rightly dismissed the appeal of the applicant, vide impugned order (Annexure A-3).

23. Therefore, the DA and AA have considered the matter and recorded the cogent reasons, dealing with the issues raised by the applicant in his reply in the right perspective.

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.**

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

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

(V.N. GAUR)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)
19.08.2016

Rakesh