

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.337/2014

Order Reserved on 12.02.2016

Pronounced on: 14.03.2016.

**Hon'ble Mr. Raj Vir Sharma, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Ashok Singh, S/o Sh. Mahender Singh,
R/o WZ-347/E (F/F),
Near DDA Salvage Park,
Nangal Raya, Delhi-110046.

-Applicant

(By Advocate: Mr. M.K. Bhardwaj)

Versus

1. The Commissioner of Police,
Police HQ, I.P. Estate,
New Delhi.
2. The Joint Commissioner of Police,
Traffic, PHQ,
I.P. Estate, New Delhi.
3. The Dy. Commissioner of Police,
Traffic (SR), Delhi.

-Respondents

(By Advocate: Ms. Sangita Rai)

O R D E R

Mr. K.N. Shrivastava, Member (A):

This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985. The specific reliefs prayed for in it read as under:-

“(i) To quash and set aside the impugned order dated 15.09.2009 & 31.01.2013.

(ii) To declare the disciplinary proceedings initiated against the applicant vide order dated 09.06.2009 as illegal and unjustified.

(iii) To allow the OA with cost.

(iv) To pass such other and further orders which their lordships of this Hon’ble Tribunal deem fit and proper in the existing facts and circumstances of the case.”

2. The brief facts of this case are as under.

The applicant is an Inspector in Delhi Police. On 09.06.2009 when he was working as SHO, Preet Vihar Police Station, a show cause notice (SCN) was issued to him (Annexure A-3) for imposition of penalty of censure. The said SCN reads as under:

“It has come to notice that Hon’ble court of Shri Sunil Chaudhary MM Karkardooma Court in CCS No.5147, 5149, 5150, 5152, 5153 and 5154/07 u/s 138 NL Act PS Preet Vihar had passed orders. An enquiry into the matter was conducted and it was revealed that the papers related to the proceedings u/s 82 Cr PC in CC No.5147, 5149, 5150, 5151, 5152, 5153 were received in Police Station Preet Vihar on 7.7.2008 and in CC No.5154 received on 10/07/2008 by I/C V-B Ved Prakash, No 201/E for further proceedings but all these proceedings were pending by him till 10/09/2008 unnecessarily. On 10/09/2008 he handed over

the same to HC Sanjay No.445/E for conducting the proceedings after the lapse of two months. Neither he brought the matter into the notice of the then SHO nor he put up the papers before senior officers Inspt. Ashok Singh, D-1/95 being supervisory officer.

The Above act on the part of Insp. Ashok Singh, D-I/95 amounts to misconduct, carelessness and dereliction in the discharge of his official duties.

He is, therefore, called upon to show cause as to why his conduct should not be censured for the above said lapse. His reply in this regard, if any, should reach this office within 15 days from the date of receipt of this notice, failing which it will be presumed that he has nothing to say in his defence and the case will be decided ex-parte on merits.”

As the applicant failed to reply to the said SCN within the stipulated period of 15 days, the Disciplinary Authority (DA) vide his order No.10408-420/HAP-T(D-II) dated 15.09.2009 (Annexure A-1) confirmed the penalty of censure on him. He filed his Annexure A-4 appeal dated 10.11.2009 before the departmental Appellate Authority (AA); namely the Joint Commissioner of Police. The said appeal was dismissed by the AA. Aggrieved by the orders passed by the DA and AA the instant OA has been filed.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply. Applicant thereafter filed his rejoinder. As the pleadings were complete, the case was taken up for hearing the

arguments of the parties on 12.02.2016. Shri M.K. Bhardwaj, learned counsel for the applicant and Ms. Sangita Rai, learned counsel for the respondents argued the case.

4. The learned counsel for the applicant submitted that Annexure A-3 SCN issued to the applicant itself says that the applicant is not at fault, as could be discerned from the following lines of the said SCN:

“On 10/09/2008 he handed over the same to HC Sanjay No.445/E for conducting the proceedings after the lapse of two months. Neither he brought the matter into the notice of the then SHO nor he put up the papers before senior officers Inspt. Ashok Singh, D-1/95 being supervisory officer.”

Such being the facts, the impugned orders passed by the DA and AA are required to be interfered with by this Hon'ble Tribunal. It was also submitted by the learned counsel of the applicant that the applicant was succeeded by Inspector Pankaj Singh. A similar SCN as per Annexure A-7 was issued to him in the same matter. However, after considering the explanation furnished by Inspector Pankaj Singh, the DA vide his order dated 11.08.2010 (page 29 of the paper-book) decided to drop the charges and the SCN issued was filed. The learned counsel vehemently

argued that in the same matter on one hand the same DA decided not to take any action against the applicant's successor, whereas on the other hand the DA has punished the applicant by his Annexure A-1 impugned order; hence a discriminatory attitude has been shown towards applicant by the DA and AA by passing the impugned orders at Annexures A-1 and A-2. Under these circumstances, this Tribunal may set aside the impugned orders and allow the OA; the learned counsel prayed.

5. Per contra, the learned counsel of the respondents submitted that the arguments put-forth by the learned counsel for the applicant are misleading. She submitted that the applicant vide impugned orders has been punished for his supervisory lapses. How can an SHO be oblivious of inaction on the part of his subordinates; as head of the Police Station it was the responsibility of the applicant to ensure that all the police personnel working in the Police Station are discharging their duties in the proper manner. She further submitted that the SCN was issued to the applicant in view of certain critical remarks passed by Shri Sunil Chaudhary, Metropolitan Magistrate, Karkardooma

Court in his order dated 29.09.2008 and it was indeed found that the warrants issued were not executed. She vehemently argued that the applicant cannot pass the blame in the matter squarely of his subordinates and that he definitely failed in his supervisory duties. Concluding her arguments, she said that for the failure on the part of the applicant, he has been rightly imposed the penalty of censure by the DA and the same has been correctly confirmed by the AA and hence the OA should be dismissed.

6. We have considered the arguments put-forth by the learned counsel for the parties and also perused their pleadings. There is no denial to the fact that certain warrants issued by the Court had remained unexecuted by the Police Station. The responsibility of execution, as is borne out from the records, laid with the Head Constable, who neither discharged his duties in this regard, nor brought the matter to the notice of the SHO (applicant). Nevertheless, the applicant being the SHO is also supposed to perform his supervisory role over his own staff in an effective manner so that the entire Police Station functions in a vibrant manner. We also take cognizance of the fact that Inspector Pankaj Singh, who succeeded the

applicant in the said Police Station was also issued similar SCN, but after considering his reply, the DA decided to drop the proceedings and the SCN issued was filed. In the case of the applicant we find that he failed to submit his reply to the DA vis-a-vis SCN, hence the DA decided to pass the ex-parte Annexure A-1 impugned order. Under these circumstances, we feel it appropriate that the applicant should be given yet another opportunity by the DA to file his reply to the SCN and only after considering that the DA should pass the final order. This would be in accordance of the principles of natural justice and could be considered as most equitous and non-discriminatory.

7. In view of the above discussion, we set aside the impugned Annexure A-1 order dated 15.09.2009 passed by the DA and the Annexure A-2 order dated 31.01.2013 passed by the AA and we remand the case back to the DA. It is further directed that the applicant shall file his reply to the Annexure A-3 SCN dated 09.06.2009 within two weeks of receiving a copy of this order and within four weeks of the receipt of his reply, the DA shall pass a reasoned and speaking order. Needless to say that a copy of the

order passed shall be communicated to the applicant immediately thereafter.

8. With the above direction, the OA is disposed of.

9 No order as to costs.

(K.N. Shrivastava)
Member (A)

(Raj Vir Sharma)
Member (J)

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