

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.487/2014

Order Reserved on: 05.09.2016

Pronounced on: 22.09.2016.

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Atul Sood (Insp. ATO),
No.D/3013, PIS No.16900058
Delhi Police, Posted at
P.S. Sarojni Nagar,
S/o Sh. Sansar Chand Sood,
R/o 251-E, MIG Flats,
Rajouri Garden,
New Delhi-110027.

(By Advocate Shri S.C. Sagar)

- Applicant

-Versus-

1. Delhi Police through
Commissioner of Police,
Police Headquarters,
I.P. Estate,
New Delhi.
2. Govt. of NCT of Delhi through
Chief Secretary,
Players Building, I.P. Estate,
New Delhi.

-Respondents

(By Advocate Shri N.K. Singh for Mrs. Avnish Ahlawat)

O R D E R

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

This Original Application (OA) has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985. The specific reliefs prayed for by the applicant in the OA, read as under:

- “i) set aside the impugned order dated 7.1.2014 passed by Appellate Authority/Commissioner of Police, Delhi Police, PHQ, New Delhi;
- ii) set aside the impugned order dated 30.4.2013 passed by Disciplinary Authority/Jt. Commissioner of Police, South-Eastern Range, New Delhi;
- iii) set aside the impugned Show Cause Notice dated 16.04.2013 issued by Disciplinary Authority/Jt. Commissioner of Police, South-Eastern Range, New Delhi;”

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

2.1 The applicant at the relevant point of time was working as SHO, Sarojini Nagar Police Station, New Delhi when Annexure ‘C’ Show Cause Notice (SCN) dated 16.04.2013 came to be issued to him, which reads as under:

“Explanation notices were issued to Insp. Atul Sood, No.D-3013 (PIS No.16900058) (SHO Sarojini Nagar) vide this office Nos.15901-03, 15904-06, 15907-09, 15910-12, 15913-15, 15916-18, 15919-21, 15922-24, 15886-88, 15889-91, 15892-94, 15871-73/SDP(P-1), dated 30.10.12, on the allegations that time and again it has been emphasised to keep a tab on the known criminal and their minute detail should be made part of their History sheet. To check the efforts made by him in updating the record of known criminal an exercise was undertaken. During this exercise History sheet of Sanjay @ Sanjoo s/o Vijay Sharma, r/o Vagabond, Sarojini Nagar, Sohan Lal S/o Bhagat Raj, R/o Jhuggi No.39, Cement Godown, Netaji Nagar, Ramesh Kumar @ Mayun S/o Ram Singh R/o C-II/43, Servant Qtr. Moti Bagh-I Delhi & Village Seuci, Distt. Pauri Garwal, Uttrakhand, Ashok Kumar S/o Banwari Lal R/o 2729, Netaji Nagar, Vinod S/o Veer Bahadur R/o F-1957, Netaji Nagar, Rishi Raj S/o Sh. Rajpal Singh R/o E-1721, Netaji Nagar, Surender Singh S/o Ram Chander R/o 1223, Laxmi Bai Nagar, Devender @ Dabba R/o MPT-407, Sarojini Nagar, Umesh Shah s/o Om Prakash @ Habansh Gupta R/o P-10, Pillanji Village, Sarojini Nagar, Sadhu Kumar s/o Habansh Gupta

R/o P-10, Pillanji Village, Rajesh S/o Bharat Singh R/o P-170, Pillanji Village, Madan Lal @ Maddi S/o Munshi Ram R/o 40/05, Lal Qtr. Opp. Pillanji Village, Sarojini Nagar were checked and many shortcomings have been noticed.

Despite repeated directions to maintain the history sheets according to the guidelines issued by the PHQ, the history sheets have not been maintained in proper manner. Being the local police, to know the each and every details of bad characters of the particular areas should be maintained. It helps in proper surveillance and assists local police in preventing the crime. Non compliance of directions in this regard clearly shows lackadaisical approach on the part of Insp. Atul Sood, No.D-3013 (SHO/Sarojini Nagar, which also adversely affects the overall perception about South District that the known criminals are roaming free and no effective surveillance is being kept to check their movement despite specific directions that all minute detail should be recorded in History sheets.

The copies of explanation notices were sent to SHO/PS Sarojini Nagar for its self receipt and to send his reply in response to above said explanation notices, but despite repeated reminders dated 19.11.12, 29.11.12 and 09.01.13, the Inspector neither acknowledged the notices nor submitted his written replies till date. All this shows that he has nothing to say in his defence rather admit his guilt. Non submission of acknowledgement and reply to the official correspondence also amounts to indiscipline on the part of Insp. Atul Sood, No.D-3013. Therefore, it has been decided to issue show cause notice for censure to Insp. Atul Sood, No.D-3013 (SHO/Sarojini Nagar).

Insp. Atul Sood, No.D-3013 (PIS No.16900058) (SHO/Sarojini Nagar) is, therefore, called upon to show cause as to why his conduct should not be censured for the above lapse. His reply, if any, in this regard should reach this office within 07 days from the date of its receipt, failing which it will be presumed that he has nothing to say in his defence and the matter will be decided ex-parte on its merit.”

2.2 The applicant submitted his reply to the SCN vide Annexure 'D' letter dated 27.04.2013 as under:

“Sir,

A Show Cause Notice for Censure had been issued to me on the ground that shortcomings were noticed in the History Sheets of Sanjay @ Sanjoo s/o Late Vijay Sharma, Sohan Lal s/o Bhagat Raj, Ramesh Kumar @ Mayun s/o Ram Singh, Ashok Kumar s/o Banwari Lal, Vinod s/o Veer Bahadur, Rishi Raj s/o Rajpal Singh, Surender s/o Ram Chander, Devender @ Dabba s/o Rajbir, Umesh Shah s/o Om Prakash @ Habansh Gupta, Rajesh s/o Bharat Singh, Sadhu s/o Harbansh Gupta. Despite repeated directions to maintain History Sheets according to the guidelines by the PHQ, the History Sheets were not maintained in a proper manner.

It is submitted that the shortcomings observed in the History Sheets have been rectified, record updated and compliance done. It is therefore

requested that a lenient view may be taken and the SCN for Censure issued to the undersigned may kindly be filed.”

2.3 As the reply of the applicant was not found to be satisfactory, the Disciplinary Authority (DA) vide the impugned Annexure ‘B’ order dated 30.04.2013 exercising its power under Delhi Police (Punishment & Appeal) Rules, 1980, confirmed the SCN for censure for the lapses indicated in the SCN. Accordingly, the conduct of the applicant was censured.

2.4 Aggrieved by the impugned Annexure ‘B’ order of the DA, the applicant filed his Annexure ‘E’ appeal dated 05.06.2013 before the departmental Appellate Authority (AA), who vide his impugned Annexure ‘A’ order dated 07.01.2014 dismissed the appeal.

2.5 Aggrieved by the orders of the DA and AA the applicant has filed the instant OA.

2.6 The important grounds pleaded in the OA are as under:

a) The respondents have failed to spell out the shortcomings observed by them in the functioning of the applicant. The shortcomings relating to history sheeters have been rectified with effect from the date of the SCN dated 16.04.2013. The impugned orders are based on assumptions having no evidence to show the lackadaisical approach on the part of the applicant.

b) The Hon’ble Supreme Court in the case of **Union of India v. H.C. Goel**, [AIR 1964 SC 264] has held that finding of guilt can be

recorded on the basis of specific evidence only and the suspicion however, strong, can never take the place of proof even in departmental enquiries.

3. Pursuant to the notices issued, the respondents entered their appearance and filed their reply. The applicant thereafter filed his rejoinder.

4. The respondents in their reply have stated as under:

i) Several explanations/memos (12 in number) were issued to the applicant by DA in respect of a number of criminals on 30.10.2012.

ii) Repeated reminders viz. dated 19.11.2012, 29.11.2012 and 09.01.2013 were issued to the applicant by the DA who neither acknowledged the receipt of these reminders nor submitted his written reply.

iii) Records of the history sheeters were updated by the applicant only after the Annexure 'C' SCN dated 16.04.2013 was issued to him.

5. The case was taken up for hearing the arguments of the parties on 05.09.2016. Shri S.C. Sagar, learned counsel for the applicant and Shri N.K. Singh, for Mrs. Avnish Ahlawat, learned counsel for the respondents argued the case, who basically reiterated the averments made in their respective pleadings.

6. It is borne out from the record that the applicant had not kept the history sheets of the criminals of his jurisdiction up-to-date. It is also on record that he was issued memos and reminders by the DA for the said shortcomings but he failed to act in the matter. He ultimately did the needful only after the Annexure 'C' SCN was issued to him by the DA.

7. In this view of the matter, the delinquency on the part of the applicant becomes clear as crystal. Therefore, we do not find any illegality, perversity or arbitrariness in the impugned orders passed by the DA and AA whereby the penalty of censure has been imposed on the applicant. The OA is thus dismissed being found devoid of any merit.

8. No order as to costs.

(K.N. Shrivastava)
Member (A)

(V. Ajay Kumar)
Member (J)

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