

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA-856/2018

New Delhi this the 21st day of February, 2018

HON'BLE MR. JUSTICE PERMOD KOHLI, CHAIRMAN
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)

Jai Narain-III,
Inspector in Delhi Police,
PIS No. 16900113
Aged about 52 years,
s/o Sh. Fateh Singh,
R/o 91-B, Jyoti Apartent,
Sector-14 Extension,
Rohini, New Delhi-85.

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Applicant

(through Sh. Anil Singal)

Versus

1. Govt. of NCT of Delhi,
Through Commissioner of Police,
PHQ, IP Estate, New Delhi.

2. Addl. CP (Traffic),
PHQ, IP Estate, New Delhi.

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Respondents

ORDER (ORAL)

Hon'ble Mr. Justice Permod Kohli, Chairman

This OA is directed against the order dated 18.11.2013 whereby disciplinary authority has imposed penalty of censure upon the applicant and the order dated 28.03.2017 whereby the appeal preferred by the applicant against the penalty order has been dismissed. Show cause notice was issued to the applicant who was posted as Traffic Inspector in Narela, Delhi Zone Traffic Circle, for dereliction of duties as a Supervisory Officer. The allegations as against the staff working under him are as under:

"On 22.07.2013, Ct. Pritam, No. 5840/T being alone was found stopping commercial vehicles and carrying challan book No. 15612 from challan No. 780570 to 780595 in his hand at Delhi to Sonapat stretch. These challans were pre-signed by ZO/SI Vinod Kumar without mentioning any information. At the same time, Ct. Vivek Kumar, No. 3597/T was found stopping commercial vehicles with the help of one vicilian namely Ashok Kumar with

a challan book in his hand, at Sonapat to Delhi stretch, with challan book No. 15619 bearing challans No. 780901 to 780920. These challans were also pre-signed by the said ZO/SI. One truck bearing registration number RJ-14GC-9832 was challenged by Ct. Vivek vide challan No. 780920 of the said challan book. Twenty challans were issued for compounding money of Rs. 2000/- whereas a sum of Rs. 2550/- was found from the pocket of Ct. Vivek.

On 11.07.2013, Ct. Dharampal, No. 4996/T also admitted to writing the challans on challan book No. 12238 from challan no. 611851 to 611862. He also stated that these challans were pre-signed by ZO/SI Vinod Kumar and he filled up the remaining information."

2. The lack of supervision is also alleged in the following Para:

"It was the duty of appellant being TI/Narela Traffic Circle, to keep monitoring the activities of staff working under him but he failed to check the unwarranted activities of the staff as mentioned above which shows grave negligence, carelessness and dereliction in the discharge of his official duties."

3. It is admitted case of the applicant that he did not reply to the show cause notice. He was even called for personal hearing along with his written reply on 01.11.2013 and 08.11.2013 vide notice dated 30.10.2013 and 04.11.2013 respectively. He was also informed on his government mobile for appearing in the office of disciplinary authority. He failed to reply on all the opportunities granted to him and also did not appear before the disciplinary authority. In absence of there being any response, the disciplinary authority imposed the penalty of censure. The applicant preferred appeal before the appellate authority. The appellate authority has rejected the appeal noticing that the applicant did not respond to disciplinary authority and did not avail the opportunities provided to him.

4. Sh. Anil Singal, learned counsel for the applicant submits that he has mentioned in the memo of appeal, the reasons for his non appearance. We have perused Para 13 of the memo of appeal in which the applicant has attempted to project that on account of VVIP movement and Trade Fair, he could not respond or appear before the disciplinary authority. This explanation does not inspire confidence. VVIP movement does not take place for the whole day. He could have conveniently asked for further opportunity if he was

prevented by circumstances on that particular date. It is not that he was provided only one opportunity. He was granted three opportunities to file his response and also to appear in person. The applicant has not disputed the grant of opportunities as mentioned in the impugned order. Sh. Anil Singal has however contended that the applicant cannot be penalised for the activities of his subordinate staff and in support of his contention, he has relied upon the judgment dated 17.08.2006 passed in OA No. 2362/2005.

5. We have carefully perused the said judgment. In the said judgment, proper inquiry was held and based upon material produced before the inquiring officer, the Tribunal was of the opinion that there was no lack of supervisory authority attributable to the applicant therein. In the present case, it has come on record in the show cause notice that the Constables who were deputed for traffic duties had pre-signed challans with them and at one place, there was only one Constable. He had secured services of private person in helping to challan commercial vehicles. Apart from that, it has also come on record that he had compounding money of Rs. 2,000/- whereas Rs. 2,550/- was found from the pocket of the Constable. The allegations are serious in nature. The applicant who was Traffic Inspector was in charge of the Narela Traffic Circle and it was his duty to ensure that such kind of things did not happen in his area. In any case, this Tribunal is not sitting as a court of appeal. The court is only required to ensure that the disciplinary authority has acted in fair manner. We find that the disciplinary authority or the appellate authority has not acted unfairly. The applicant pleaded no defence at all and thus the disciplinary authority as also the appellate authority was truly justified in passing the impugned order. We find no merit in the petition. Dismissed.

6. The applicant submits that separate disciplinary proceedings have been initiated against the subordinate officers against whom there are specific allegations and in the event the subordinate officers are acquitted of the charge, the applicant will still have to suffer the penalty. We make it clear that if the subordinate officers against whom disciplinary proceedings have been initiated are exonerated of the charge, the applicant shall have the right to seek review of the penalty and in that eventuality the competent authority will definitely consider all the relevant aspects.

(UDAY KUMAR VARMA)
MEMBER (A)

(JUSTICE PERMOD KOHLI)
CHAIRMAN

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