

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 985/2014

M.A. No.887/2014

Reserved on : 03.12.2016

Pronounced on : 07.12.2016

HON'BLE MR. P.K. BASU, MEMBER (A)

Inspector R.K. Jha,
Aged about 50 years,
S/o Late Braj Kumar Jha,
Presently working as Inspector PQ Cell,
Police Head Quarter, Delhi Police,
8th Floor, Police Head Quarter,
ITO, New Delhi-110002.

R/o Qr. No.21, Type-III,
Kashmiri Gate Police Station Compound,
Delhi-110006.

.. Applicants

(By Advocate : Shri Sanjay Kr. Das)

Versus

1. Union of India
Secretary, Ministry of Home Affairs,
North Block, New Delhi-110001.
2. Commissioner of Delhi Police,
Police Head Quarter,
ITO, New Delhi-110002.
3. Jt. Commissioner of Police, Security (PM)
Delhi Police, Police Head Quarter,
ITO, New Delhi-110002.
4. Deputy Commissioner of Police, Security (PM)
Delhi Police, Police Head Quarter,
ITO, New Delhi-110002.

.. Respondents

(By Advocate : Mrs. Harvinder Oberoi)

ORDER

The applicant, who is an inspector with Delhi Police, was awarded a punishment of "censure". The main allegation against the applicant is that one Shri Wazir Ahmed, who was also a Member of Police Security Committee filed the following complaint :

"On 27.11.2010 at 7 p.m. Inspector Raman Kumar Jha came to him and Mr. Noor Nabi, Advocate was sitting with him. Inspector Raman Kumar called him outside and told him that he requires Rs.2 lakh for senior office funding. He got money from Advocate Noor Nabi and gave to Inspector Rama Kumar Jha on 28.11.2010 P.S. Welcome. After 10 days when the money was not returned by Inspector Raman Kumar Jha, he contacted Insp. Raman Kumar Jha on phone who informed person has not arrived. Thereafter, Insp. Raman Kumar Jha transferred to Security. On 18.12.2010 he went to the police station, Inspt. was not at the police station. When contacted he did not get satisfactory reply. On 30.12.2010 and 04.01.2011, he recorded the conversation on friend Safique mobile between Inspt. Raman Kumar Jha and him. Thereafter, he contacted Inspector on phone who threatened him."

2. A Vigilance Inquiry was instituted and the Inquiry Report submitted by Inspector Vigilance concluded that the allegation levelled against the applicant is not substantiated. The reason for that is stated to be as follows:

"It revealed that it was a money transaction between the complainant and Amir Raza. The complainant has alleged against Inspector Raman Kumar Jha on basis of his presence at the spot and requested in a bonafide manner to give money to Amir Raza. Now, the matter has been settled between both the parties and the complainant has requested not to take future action on his complaint."

3. Shri Wazir Ahmed had filed a complaint on 07.04.2011. It contained a detailed narration of facts including transcript of

recording which Wazir Ahmed did with Inspector Raman Kumar Jha, the applicant, which reads as follows:

“To
The Jt. Commissioner of Police,
Delhi Police Anti-Corruption Branch,
Asaf Ali Road, New Delhi

Sub: Regarding complaint of Sri Wazir Ahmed, S/o Sri Mubarak Hussain, R/o Jhuggi No.H-294, Mazdoor Janta Colony, Welcome, Shahdara, Delhi against Inspector Raman Kumar Jha, for cheating and threatening to kill.

Sir,

It is requested that I am residing at the afore-given address and also a member of Police Security Committee, I am running a factory which produces ready-made jeans. On 27.11.2010 at about 7 p.m. Inspector Raman Kumar Jha came to me. At that time Mr. Noor Nabi, Advocate was with me. Inspector Raman Kumar called me outside and told that he requires money for senior officer's funding and for that purpose he required Rs.2 lakh urgently. He also told that the person with whom he had kept the money, had gone out of Delhi. He requested me to give him Rs.2 lakh with the assurance that as soon as his person comes from out side Delhi, he would return the money. I said that I did not have that much of money. I told him to come inside so that I could talk to Noor Nabi Vakil Saheb, who resides in Welcome, if he had that much of money to advance, so that I could take the money from him to give him. After coming inside, I told Noor Nabi Advocate that Inspector Raman Kumar Jha requires Rs.2 Lakh urgently. I told him also that the person with whom Inspector Saheb has kept money, had gone out of Delhi and as soon as he returns to Delhi, money would be returned immediately. I requested Vakil Saheb to give Rs.2 Lakh to Inspector Saheb and for which I wanted to remain as a guarantor. Noor Nabi Vakil Saheb told that he would give the money the next day. On 28.11.10 at about 6 p.m. I accompanied by Noor Nabi went to Welcome Police Station and paid to Inspector Raman Kumar Jha a total amount of Rs.2 Lakh after taking the same from Noor Nabi. When for about 10 days thereafter, Inspector Saheb did not return the money, I gave a ring to him from by mobile no.9312535393 and told him that Vakil Saheb wants his money back. Inspector Saheb told that his man had not returned and the moment he comes to Delhi, he would make the payment. He also told that he would

talk to the said person and would inform me. Suddenly I came to know that Inspector Raman Kumar Jha Saheb had been transferred from the Welcome Police Station to Security Wing of Delhi Police, Vinay Marg. I and Noor Nabi Vakil Saheb went to Welcome Police Station and Noor Nabi Vakil Saheb asked Inspector Saheb about his transfer to Security wing, Delhi Police, Vinay Marg, to which Inspector Saheb said in affirmative. But he said that he would join the post within a period of 15 days and he also assured of return of the money. I and Noor Nabi Vakil Saheb again went to the Welcome Police Station on 17.12.2010 which happened to be Muharram festival. But Inspector Saheb told us that he had not been relieved from the said police station and he would go after returning the money. On 18.12.2010 we again went to Welcome Police Station in the morning and Inspector Saheb told us to come at 3'o clock in the evening. When we went at 3 p.m. Inspector Saheb was not in the police station. When we went at 6 p.m. Inspector Saheb told us that our work would be done at 10 p.m. On 18.12.2010 when we visited the police Station 10 p.m., the Inspector Saheb had already left the police station. Then I contacted him from my mobile no. 9312535393 and talked to him. He told me that he would talk to us in the morning next day. When I contacted him from mobile, he did not give any satisfactory reply. Then I suspected that Inspector Raman Kumar Jha wants to misappropriate the amount of Rs.2 lakh which I had given to him after taking from my Vakil Saheb. So I contacted his mobile no.9958141555 from the mobile no.9582934076 of my friend Shafiq on 30.12.2010 and 04.01.2011 and I recorded the entire conversation which are as follows:

Recording on 30.12.10:

Voice of Wazir : Hello, Namaskar Sirji, I am Wazir speaking.

Voice of Inspector Raman Kumar Jha : Yes, Wazir, Namaskar. How are you.

Voice of Wazir: All well. How are you brother. I am in problem.

Voice of Inspector Raman Kumar Jha: Yes, Yes,

Voice of Wazir: Bhai Saheb, do like this-please arrange the money for the Vakil Sahed, I am in all kinds of problems.

Voice of Inspector Raman Kumar Jha: Yes I will pay.

Voice of Wazir: It is like this Bhai Saheb- By telling this many days have gone by. Now I have no option but to take poison.

Voice of Inspector Ram Kumar Jha: I came only yesterday. OK.

Voice of Wazir: I am in all kinds of problem. Now I will take poison and if you can make me quite, please do it.

Voice of Inspector Raman Kumar Jha: I have come only in the evening.

Voice of Wazir: So the money of Vakil Saheb can be arranged tomorrow.

Voice of Inspector Raman Kumar Jha: Let me talk to the person and see what he is saying.

Voice of Wazir: It would be very good of you. Now I do not have any other option.

Voice of Inspector Raman Kumar Jha: Ok. Let us see.

Voice of Wazir: Sir.

Voice of Inspector Raman Kumar Jha: Hasin wants to talk.

Voice of Wazir: It is like this sir,

Voice of Inspector Raman Kumar Jha: Hasin wants to talk.

Recording of 04.01.11:

Voice of Wazir : Hello.

Voice of Inspector Raman Kumar Jha: Yes.

Voice of Wazir: Ji Namaskarji Bhai Saheb.

Voice of Inspector Raman Kumar Jha: Yes, Namaskar.

Voice of Wazir: Wazir speaking.

Voice of Inspector Raman Kumar Jha: Yes, please talk.

Voice of Wazir: Yesterday I talked to Hasin Bhai who told me to make a complaint to ACP.

Voice of Inspector Raman Kumar Jha: Yes, what then.

Voice of Wazir: Vakil Saheb said that he knows somebody or he has some friend there.

Voice of Inspector Raman Kumar Jha: Give me a call after 5 minutes.

Voice of Wazir: Now Sir, I am under tremendous pressure and also nervous.

After this I and Vakil Saheb went to the Security of Delhi Police at Vinay Marg to talk to Inspector Raman Kumar Jha. However, when we enquired about the meeting with Inspector Saheb, we were told that he was on duty in Security of President and he had gone to attend the court on the same day. I from the mobile no.9210044702 of Vakil Saheb give a ring to the mobile no.9868221555 of Inspector Saheb. But he failed to give a satisfactory reply. On the very next day, Inspector Saheb gave a call in my mobile number and told me that he would return the money by 22nd of March. Thereafter, on 28th or 29th of March I from my mobile number gave a call to Inspector Saheb and told him not to put me to further trouble. I also told him about my approach to higher officials in Delhi Police. He abused me over phone and threatened to kill me. He also told me that one day he would move out of Security Wing and would join any police Station as its SHO.

Therefore, I request your goodself to take appropriate departmental action against Inspector Raman Kumar Jha for his act of cheating, threatening to kill me and to implicate me in false cases and punish him in accordance with law and give justice to the applicant.

Note: Enclosed recorded conversation of the Applicant with Inspector Raman Kumar Jha in CD.

Sd/- (Wazir Ahemed)
H-294, Janta Mazdoor Colony,
Welcome, Delhi-53"

4. Thereafter, a Show Cause Notice dated 28.02.2012 was issued alleging that the applicant had taken Rs.2 lakhs from a private

party under a dubious pretext, which was received by the applicant on 09.04.2012. When no reply was filed within the stipulated time of 15 days, i.e. 24.04.2012, he was issued a reminder dated 26.04.2012. The applicant failed to submit his written reply to the Show Cause Notice even then. Since he did not bother to submit his reply, the Disciplinary Authority concluded that the applicant has nothing to say in his defence and decided the matter ex-parte on its merits. Based on the facts before him, the order for 'censure' was passed.

5. The applicant thereafter filed a belated reply to the Show Cause Notice, dated 03.07.2012. His basic contention is that he was not at all involved in the transaction of money, which was basically between Shri Wazir Ahmed and Shri Amir Raza, who were known to each other. In his explanation, he alleged that the complaint was on the instruction of one Advocate, who has a grudge against him. He admits that he knew Shri Wazir Ahmed as he belongs to P.S. Area, but was nowhere involved in the money transaction. In fact, it is stated that ultimately the money was returned to the party concerned. However, this reply was filed about two months after the order of penalty. He filed an appeal dated 10.07.2012 against the penalty order dated 15.05.2012, more or less repeating the same thing. The Appellate Authority vide order dated 29.08.2012 rejected his appeal.

6. Being aggrieved by this order, the applicant has filed this O.A. with the following prayer:

- “A. Quash and set aside the impugned orders dated 15.05.2012 and 29.08.2012 vide Annexure: A1 and A2 declaring the same to be illegal and unsustainable both on facts and law with all service benefits consequential thereto; and
- B. Call for the records of the case; and/or
- C. pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case and in the interest of justice.”

7. Learned counsel for the applicant stated that in the Vigilance Inquiry, the charge was not substantiated. In fact, the Vigilance Team states that the inquiry was conducted, statements recorded and evidence collected. This would imply that they also had access to transcript of CDs and CDs also and despite that they came to the conclusion that the charge was not substantiated. Secondly, it is contended that the Appellate Authority did not bother to take note of points raised by him in his appeal and passed an order without application of mind.

8. Learned counsel for the respondents, first of all, raised the preliminary objection that the Application filed by the applicant is barred by limitation as prescribed in Section 21 of the Administrative Tribunals Act, 1985 because Appellate Order dated 29.08.2012 was delivered to the applicant on 06.09.2012 and the applicant has filed this O.A. on 10.02.2014, as such the present

O.A. is delayed by more than 5 months and on this ground alone, the O.A. should be dismissed.

9. The applicant had filed an MA bearing No.887/2014 seeking condonation of delay. The ground for delay stated is mainly that the applicant decided to consult and obtain legal opinion in the matter and since the advocate had some personal problem, the matter was delayed. Clearly, this is not a very convincing argument. The applicant is a sufficiently senior officer of Delhi Police and he should have been aware of the law. The condonation of delay of 125 days sought by him, hence, cannot be accepted. This O.A., therefore, is not maintainable on the ground of limitation itself and deserves to be dismissed as such.

10. On the merits of the case, the learned counsel for the respondents pointed out that the detailed complaint that had been filed by the complainant on 07.04.2011, was filed after six months of the incident, which happened on 27.11.2010. Therefore, the money was not returned for six months, where after, when the vigilance inquiry was commenced on the basis of this complaint, the money was quickly returned. Secondly, it is argued that the applicant chose not to respond to the Show Cause Notice, despite a reminder, neither did he file any request for extension of time. It is stated that in departmental proceedings the principle of preponderance of probability prevails unlike in a criminal case

where guilt has to be proved beyond any reasonable doubt. From the facts of the case, the Disciplinary Authority came to the conclusion that the conduct of the applicant is clearly in violation of the provisions contained in CCS (Conduct) Rules, 1964. However, he chose to give a mild punishment, viz. censure.

11. The applicant added nothing new in his appeal and the Appellate Authority noted the facts and his pleas as well as heard the applicant in the orderly room. It was noted that the main plea of the applicant is that he had no role in the matter and that he has been falsely implicated, but the applicant failed to produce any supportive evidence which could establish this fact that he has no role in the funding matter. Secondly, it was also noted that despite two opportunities, the applicant did not file a reply to the Show Cause Notice within the stipulated period.

12. Heard the learned counsel for the parties and perused the pleadings.

13. The complaint filed by the complainant against the applicant was a detailed complaint along with conversation which the applicant had over the mobile phone. In any case, in judicial review, we are not supposed to go in for re-appreciation of evidences but only to see whether the respondents have followed the procedure correctly and no interference is called for unless there is obvious

mala fide/vindictive action/illegality by the respondents. The facts and circumstances clearly show that there has been no mala fide, arbitrariness, vindictiveness or illegality on the part of the respondents. The procedure has been correctly followed. A vigilance inquiry was held, thereafter, a show cause notice was issued, the applicant refused to file a reply to the show cause notice within stipulated period despite reminder, neither did he file any request for extension of time. From the facts of the case, the Disciplinary Authority concluded that the applicant has not conducted himself in accordance with CCS (Conduct) Rules, 1964 and awarded the punishment of 'censure'. The Appellate Authority also duly considered his appeal/representation and decided it by passing a detailed and speaking order. The allegation of the applicant that the Appellate Authority has not applied his mind is not borne out by reading of the Appellate Authority's order. Therefore, even on the merits of the case, I would not like to interfere in the orders dated 15.05.2012 and 29.08.2012 passed by the respondents, apart from the fact that this O.A. is barred by limitation, as stated above.

14. In view of observations made above, the MA as well as O.A. are dismissed. However, there shall be no order as to costs.

(P.K. Basu)
Member (A)

/Jyoti/