

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 1916/2013

New Delhi, this the 5th day of October, 2016

Hon'ble Mr. P.K. Basu, Member (A)

Inspector Brijesh Namboori
No.D/2985 (PIS No.16900031)
4th Bn. DAP
Kingsway Camp,
New Delhi.

.. Applicant

(By Advocate : Shri Gyanendra Singh)

Versus

1. The Commissioner of Police,
PHQ, MSO Building,
ITO, I.P. Estate,
New Delhi.
2. The Dy. Commissioner of Police,
North East District,
Delhi.
3. The Joint Commissioner of Police,
South Eastern Range,
Delhi.

.. Respondents

(By Advocate : Ms. Neetu Mishra for Mrs. Rashmi Chopra)

ORDER (ORAL)

Heard the learned counsel and perused the relevant documents.

2. The applicant, Shri Brijesh Namboori, who is an Inspector in Delhi Police, was issued a show cause notice dated 20.01.2011 for

delayed registration of FIR in a motorcycle theft case by 13 days. The applicant in his reply took the defence that the complainant tried to search motorcycle on his own and due to his busy official duty, he could not get the statement of the complainant for registration of the case and the complainant gave a statement only on 06.12.2010 about the incident and FIR No.278/2010 dated 06.12.2010 u/s 379 IPC was registered. The Disciplinary authority vide order dated 10.03.2011 passed an order imposing the minor penalty of "censure" primarily rejecting the stand taken by the applicant that the complainant was busy in his official duty and, therefore, the FIR could not be registered earlier, as not a convincing plea at all. The applicant filed an appeal before the Joint Commissioner of Police which was also rejected vide order dated 23.10.2012.

3. The learned counsel for the applicant states that the fact that the statement of the complainant could not be recorded due to his busy official schedule, has not been gone into by either the Disciplinary Authority or the Appellate Authority whether this fact is correct or not and both the parties have surmised that this plea was not a convincing plea at all.

4. Learned counsel for the respondents states that delay of registration of FIR by 13 days by the applicant is a matter of grave misconduct, negligence and carelessness in discharge of his duties and, therefore, the O.A. should be dismissed. She also relied on order of this Tribunal in O.A. No. 4134/2013 which was also a case of delayed registration of FIR and the explanation of the charged officer there was also that despite several attempts the complainant could not be contacted and, therefore, there was a delay in filing the FIR. The O.A. which had been filed by the charged employee in that case was dismissed. It is stated that on the basis of the order of the Tribunal in O.A. No.4134/2013, this O.A. should also be dismissed.

5. Learned counsel for the applicant, however, pointed out that the facts of the case in both the OAs are different and, therefore, order passed in O.A. No.4134/2013 cannot be set as precedent. Learned counsel further argues that though action has been initiated against him, who is an Inspector, there is no action against ASI Hukam Singh, who had been handed over the case after the call was received by the police station on 22.11.2010. It is stated that in a similar O.A. the Tribunal had taken a view that this amounts to discrimination.

6. The fact of this case is that there was a delay of 13 days in filing of the FIR in the case of theft of the motorcycle. The applicant's explanation before the Disciplinary Authority was that being busy in official duty, the statement of the complainant could only be obtained on 06.12.2010, on which date the FIR was lodged. The Disciplinary Authority and the Appellate Authority rejected this on the ground that this is not a convincing plea at all. The law is well settled in the case of departmental proceedings. The requirements are not as stringent as in criminal proceedings, where guilt has to be proved beyond any reasonable doubt. Departmental proceedings are based on the principle of preponderance of probability.

7. In this case, the Disciplinary Authority came to the conclusion that the reason for delay was not a convincing plea. I see no reason to question this. The principle of preponderance of probability will operate. The settled law is that Tribunals should not get into re-appreciation of evidence in departmental proceedings. Also, the fact of each departmental proceeding is unique and cannot be compared. Moreover, what view the respondents have taken in the case of ASI Hukam Singh will not affect the finding in this O.A. The complainant having informed the police station on 22.11.2010, the FIR could not be registered for 13 days and, therefore, I am not

persuaded by the argument made on behalf of the applicant and do not wish to interfere in the orders passed by the Disciplinary Authority dated 10.03.2011 and Appellate Authority dated 23.10.2012. The O.A. is accordingly dismissed. No order as to costs.

(P.K. Basu)
Member (A)

/Jyoti/