

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.3755/2014

New Delhi this the 10th day of March, 2016

HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

Atul Sood, Age 47 years
Designation: Inspector, Delhi Police
No.D/3013, PIS No.16900058
S/o Shri Sansar Chand Sood
R/o 251-E, MIG Flats,
Rajouri Garden,
New Delhi-110027

Presently posted at:
Incharge Lock Up
Tis Hazari Courts, Delhi,
Unit 3rd Bn. DAP,
Delhi Police.

....Applicant

(By Advocate : Mr. S.C. Sagar)

Versus

1. Delhi Police
Through Commissioner of Police,
Police Headquarter,
I.P. Estate,
New Delhi.

2. Govt. of NCT of Delhi
Through Chief Secretary,
Players Building,
I.P. Estate,
New Delhi.

.....Respondents

(By Advocate : Mrs. Rashmi Chopra)

ORDER (ORAL)

Justice M. S. Sullar, Member (J)

The contour of the facts and material, exposited from the record, relevant for deciding the core controversy involved in the instant Original Application (OA), is that applicant, Inspector, Atul Sood was posted as Station House Officer (for short "SHO"). On 09.06.2013, three incidents of chain snatching were reported

in the area of his Police Station, Sarojni Nagar. The incidents were stated to have taken place on account of absence of staff of Beat No.7 under the direct supervisory control of the applicant. All the SHOs were directed by the higher authorities that the staff of each police station be briefed regularly to properly maintain law and order in their respective areas. It was alleged that since the applicant did not supervise the matter properly, culminating in three snatching incidents in one day, so the impugned show cause notice dated 17.06.2013 (Annexure-C) was issued to him. He was called upon to explain as to why his conduct be not Censured for pointed lapses, lack of supervision, dereliction, carelessness of duty and failure to maintain proper law and order, by Deputy Commissioner of Police (for brevity "DCP"), South District, New Delhi. It was made clear to the applicant that he should file reply within a period of 15 days from its receipt, failing which it will be presumed that he has nothing to say in his defence and matter will be decided ex-parte. Although the show cause notice for Censure was served upon the applicant on 20.06.2013, but he did not submit his written reply despite issue of reminders dated 01.07.2013 and 08.07.2013. Moreover, he was also called upon to appear in Orderly Room (OR) on 26.07.2013 (Annexure-E) vide Office letter No.UO 13861-80/SD(P-I) dated 25.07.2013 and a DD Entry No.59-B was also made in this regard in the record of Police Station, Sarojni Nagar. The applicant neither filed the reply nor appeared in OR to explain his conduct.

2. Finding no alternative, DCP confirmed the Censure by means of impugned punishment order dated 09.08.2013

(Annexure-B). Even the appeal dated Nil (Annexure-D) filed by the applicant was dismissed as well by means of impugned order dated 07.05.2014 (Annexure-A) by the Appellate Authority.

3. Aggrieved thereby, the applicant has preferred the instant OA to challenge the impugned show cause notice of Censure order dated 09.08.2013 (Annexure-B) passed by Disciplinary Authority and impugned order dated 07.05.2014 (Annexure-A) passed by the Appellate Authority, invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985.

4. Sequelly, the case set up by the applicant, in brief, insofar as relevant is that, show cause notice and impugned orders are illegal, unwarranted, arbitrary, bad in law and based on assumptions/conjectures. The facts of non-filing of reply to the show cause notice despite repeated reminders and non-appearance of the applicant in OR as directed, were not denied. However, it was pleaded that since the applicant was busy in court work, vide DD Entries No.13-A and 24-A dated 26.07.2013 in the roznamcha, so he could not appear before DCP on that date. According to the applicant, even his subordinate beat staff was not suitably put to action and the applicant was made victim of discrimination which caused a great prejudice to his case. The impugned orders lack details as to what extent, the respondents was expected to have checked the alleged incident despite the fact that he was vigilant and has briefed his subordinate/beat staff. It was also pleaded that the imputations/article of charge is not specific and did not spell as to what shortcomings were observed by the respondents in the performance of his duties. There is no direct evidence of

probability to show that the applicant was negligent and careless in performance of his official duty. In all, the applicant claimed that impugned order is illegal, vague, based on assumption and conjecture and without any substance/evidence. On the strength of aforesaid grounds, the applicant sought to quash the impugned show cause notice and orders in the manner indicated herein above.

5. Likewise, the respondents have refuted the allegations and filed the reply as under:-

(i) That a Show Cause Notice for Censure was issued to Insp. Atul Sood, no. D-3013 (PIS No. 16900058) (the then HSO/Sarojni Nagar) (here-in-after called the applicant) vide this Office No. 11906-09/SD (P-I) dated 17.06.13 on the allegations that on 09.06.13, three incidents of snatching were reported i.e. two at Vijay Raje Scindia Marg and one at A. K. Roy Marg, Sarojni Nagar, New Delhi. This showed that the beat staff of beat No. 7 where the snatching cases were reported was not present in their Beat. Had the beat staff been alert in their area, the snatching could have been averted. It was time and again emphasized that the staff of each Police Station be briefed regularly about their duties and to maintain proper law and order, but these three snatching incidents showed that the SHO failed to brief/supervise the staff properly. This showed poor supervision, dereliction and carelessness on the part of the applicant, who failed to maintain proper law and order situation under control in his area.

(ii) A copy of Show cause notice for censure was served upon the applicant on 20.06.2013 but he did not submit his written reply despite issue of reminders dated 01.07.2013 and 08.07.2013. The applicant was called to appear in O.R. on 26.07.2013 vide this office U.O. No. 13861-80/SD(P-I) dated 25.07.2013 and a D.D. entry was also lodged in the Police Station Sarojni Nagar vide D.D. No. 59-B dated 25.07.2013 in this regard but he did not appear in O.R. Being SHO of the police station, he failed to give strict directions to the beat staff to remain alert in their beat area. He should have made the mechanism to control the chain snatching incidents in the area. Not responding to the official correspondence is also a misconduct and this deserve no leniency. Hence, the conduct of the applicant was censured vide this office order No. 14607-23/SD(P-I) dated 09.08.2013. The applicant received a copy

of the punishment order on 13.08.2013. He filed an appeal against the punishment order on 27.09.2013, which was rejected by the Appellate Authority vide order No. (116/2013)3403-05/SO/SER(AC-II), dated 07.05.2014.

6. It will not be out of place to mention here that the contesting respondents have stoutly denied all other allegations contained in the main OA and prayed for its dismissal.

7. Controverting the allegations of the reply and reiterating the grounds contained in OA, the applicant has filed the rejoinder. That is how we are seized of the matter.

8. Having heard the learned counsel for the parties, having gone through the record with their valuable help and after bestowal of thoughts over the entire matter, to our mind, there is no merit and instant OA deserves to be dismissed for the reasons mentioned herein below.

9. At the very outset, the celebrated arguments of learned counsel for the applicant that there is no specific evidence on record to support the allegations and imputations are vague, are neither tenable nor the observation of Hon'ble Supreme Court in case of ***Union of India Vs. H.C. Goel AIR 1964 SC 364***, wherein it was observed that the finding of guilt can be recorded on the basis of specific evidence only and the suspicion, however, strong can never take place of evidence of proof, are at all applicable to the facts of this case. In the instant case, it is not a matter of dispute that applicant was SHO of concerned Police Station at the relevant time. Three incidents of chain snatching were reported in single day i.e. two at Vijay Raje Scindia Marg and one at A. K. Roy Marg, Sarojni Nagar, New Delhi on 09.06.2013 within the area of his Police Station, Sarojni Nagar. The mere fact that some criminal cases of chain

snatching pertaining to some other Police Station were registered, ipso facto, are not sufficient to exonerate the applicant for lack of supervision. Being a responsible police officer, he was required to effectively supervise the law and order of his Police Station and to prevent any untoward incident in his area. He cannot escape his liability of three snatching incidents in single day in his area. It suggests that applicant failed to supervise the staff properly, and is guilty of dereliction and carelessness in performance of his official duty. Thus, he failed to maintain proper law and order situation under control in his area of Police Station, Sarojni Nagar. That means there is sufficient evidence on record to prove the pointed allegations levelled against the applicant.

10. Adverting to the next question of victimization, in this regard, applicant has only mentioned in para 5 (D) of the main OA that his subordinate staff/beat staff was not suitably put to action. It is not the specific case of the applicant that no action was taken against his subordinate/beat staff. On the other hand, the contesting respondents have specifically replied to para 5(D) that suitable disciplinary action was also taken against the lower subordinate/beat staff who were not found present/alert in their beat area. Even in response to para 5 (D) of reply, the applicant has not specifically alleged in the corresponding para of the rejoinder that no such action was taken against the subordinate/beat staff.

11. In this regard the learned counsel for the applicant has relied upon the observations of Hon'ble Apex Court in case ***Man Singh Vs. State of Haryana and Others AIR 2008 SC 2481***, wherein Man Singh was deputed as Incharge of the police party

comprising of ASI Sucha Singh, HC Suraj Bhan and HC Vijay Pal for taking two Government vehicles from Chandigarh to Hyderabad (Andhra Pradesh) for repair and fitting of Jammers for security reasons. HC Vijay Pal was driving one of the vehicles. He purchased 12 bottles of Indian-Made Foreign Liquor [IMFL] at Kota (Rajasthan) and concealed the consignment of the liquor in the dickey of the car without the knowledge and consent of the appellant. On checking of the vehicles by the Excise Staff of Adilabad in the State of Andhra Pradesh, 12 bottles of IMFL were recovered from the possession of HC Vijay Pal and a criminal case was registered against him under the Excise Act there.

12. At the same time, HC Vijay Pal was also departmentally charged on account of criminal case whereas appellant, Man Singh therein was charge sheeted for improper control over his subordinates which amounted to dereliction of duties and for the lapses of indiscipline as Police Officer. Ultimately, the competent authority imposed the punishment of stoppage of two annual future increments with permanent effect upon the appellant. The punishment was maintained by the appellate/revisional authorities as well. However, HC Vijay Pal was exonerated by the Appellate Authority mainly on the ground of acquittal in the criminal case.

13. On the peculiar facts and in the special circumstances of that case, it was observed that the concept of equality as enshrined in Article 14 of the Constitution of India was violated and equal treatment should have been given even in the matter of executive or administrative action.

14. Possibly no one can dispute with regard to the aforesaid observations but same would not come to the rescue of the applicant. As mentioned hereinabove, in the present case it is not the case of the applicant that no action was taken at all against the subordinate/beat staff but his case is that no appropriate action was taken. On the other hand, the respondents specifically pleaded that suitable disciplinary action was also taken against the lower subordinate staff/beat staff. Moreover, the supervisory nature of allegations and lack of supervision attributed to the applicant are entirely different than those assigned to subordinate/beat staff.

15. Not only that, there is yet another important aspect of the matter which can be viewed entirely from a different angle. As mentioned hereinabove, the conduct of the applicant was sought to be censured only on the ground of lack of supervision and proper direction to his subordinate staff to maintain law and order in his area. He, being the SHO, is supposed to properly direct and instruct the subordinate staff to maintain law and order as he is the overall incharge of his Police Station. Although, as per material available on record, it is clear that action has also been initiated against subordinate/beat staff but assuming for the sake of argument (though not admitted) in case no appropriate action was taken against the subordinate police officials, even then it will not automatically exonerate the applicant from his entirely distinct misconduct, i.e., lack of supervision, dereliction, carelessness of duty and failure to maintain proper law and order, as contrary urged on his behalf.

16. As is evident from the record that the impugned show cause notice for minor penalty of Censure dated 17.06.2013 (Annexure-C) was issued to the applicant with regard to three pointed instances of chain snatching in one day in his area. He was asked to show cause as to why his conduct be not censured. He did not bother to file the reply. If the applicant had probable defence to explain his conduct, then he should have filed the reply to the show cause notice. Neither he filed reply to the show cause notice despite repeated reminders nor appeared on 26.07.2013 in OR, as directed by DCP, for the reasons best known to him. Even this behaviour of the applicant amounts to misconduct and insubordination which is not at all expected from a SHO of disciplined force.

17. The only ground pressed into service and the argument of the learned counsel that since the applicant was required to appear in the court, so he could not appear before DCP on 26.07.2013, is not only devoid of merit but misplaced as well and deserve to be rejected for more than one reasons.

18. At the first instance, applicant was required to file the reply to the show cause notice within a period of 15 days from its receipt. No cogent material or explanation is forthcoming on record as to what prevented him to file the reply to show cause notice within a period of 15 days from its receipt. Secondly, the DD Entry No.13-A and 24-A of Police Station, Sarojni Nagar, New Delhi are neither here nor there. It is nowhere mentioned therein that in what connection he proceeded to the court and whether he attended the court as a witness in pursuance of already issued summon or he went to the court in connection

with some investigation of a criminal case. In case the applicant was actually required to attend the court for public purpose, then indeed he would have informed the DCP in advance or at least after attending the court, which is totally lacking in the present case. Therefore, in that eventuality, possibility of subsequent recording of such DD entries, in order to create a false defence by the applicant, cannot be ruled out under the present set of circumstances.

19. No other point, worth consideration, has been urged or pressed by learned counsel for the parties.

20. In the light of the aforesaid reasons and thus seen from any angle, there is no merit and instant OA deserves to be and is hereby dismissed as such. No costs.

(MS. NITA CHOWDHURY)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)

Rakesh