

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

O.A. No.3062/2015

Order reserved on: 03.04.2018  
Order pronounced on: 06.04.2018

**Hon'ble Mr. K.N. Shrivastava, Member (A)**

Prem Veer (aged about 52 years)  
S/o Shri Saheb Singh,  
E-177/30, Ward No.2,  
Mehrauli, New Delhi-110030.

... Applicant

(By Advocate: Mr. T.N. Tripathi)

VERSUS

1. Delhi Police through  
Commissioner of Police,  
Police Headquarters,  
I.P. Estate, I.T.O.  
New Delhi.
2. Joint Commissioner of Police,  
OPS Police Headquarter,  
I.P. Estate, ITO,  
New Delhi.
3. Addl. Dy. Commissioner of Police (GA),  
Police Control Room,  
Delhi.

... Respondents

(By Advocate: Mr. K.M. Singh)

**O R D E R**

This Original Application (OA) has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 praying for the following main reliefs:

“(a) Set aside the order of the respondent No.3 dt. 20.8.2014 vide order No.15849-70/HAP/P-III/PCR dated 20.8.2014.

(b) Set aside the order of respondent No.2 vide Order No.15/6/P.Sec/Addl.C.P./Ops., dt. 05.6.2015 whereby the appeal of the applicant was rejected.”

2. The factual matrix of the case, as noticed from the records, is as under:

2.1 The applicant was appointed as a Driver in Delhi Police on 12.10.1988. On 08.12.2013, the applicant was driving an official MPV K-7 vehicle in which H/C Jaiprakash and Constable Devender were also sitting. They were going to Sarita Vihar to fetch drinking water.

2.2 Due to a punctured Maruti Van parked on the right side of the road a few vehicles hit each other due to the low visibility condition caused by the atmospheric fog. The applicant's vehicle also got involved in the accident. However, there was no casualty to the applicant or other two co-passengers.

2.3 The respondents got the vehicle inspected by the Inspection Team of MT/PCR in which it was found that the vehicle had been damaged severely. A substantial amount was spent on getting the vehicle repaired. A Show Cause Notice (SCN) was issued by the Additional Deputy Commissioner of Police, Police Control Room to the applicant, alleging gross negligence, carelessness and dereliction of duty on the part of the applicant for the accident in which the vehicle has suffered severe damage. The applicant

submitted his reply to the SCN vide his Annexure A-5 reply in which he has stated that he tried his level best to avoid the accident and exercised utmost care and caution because of which a major accident was avoided but he could not avoid the minor accident.

2.4 Not satisfied with the explanation of the applicant, the Disciplinary Authority (DA), vide his Annexure A-7 order dated 22.08.2014 imposed the penalty of 'Censure' on the applicant and also ordered recovery of a sum of Rs.41,284/- towards the repair cost of the damaged vehicle.

2.5 The applicant filed his appeal against the Annexure A-7 penalty order before the departmental Appellate Authority (AA), who vide his impugned Annexure A-1 order dated 05.06.2015 dismissed the appeal.

2.6 Aggrieved by the impugned Annexures A-1 and A-7 orders the applicant has filed the instant OA, praying for the reliefs as indicated in para-1 supra.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply, to which a rejoinder has also been filed by the applicant.

4. With the completion of the pleadings, the case was taken up for hearing the arguments of the learned counsel for the parties on 03.04.2018. Arguments of Shri T.N. Tripathi, learned counsel for

the applicant and that of Shri K.M. Singh, learned counsel for the respondents were heard.

5. Shri Tripathi contended that the Inspection Team in its report (page 12) has clearly observed that "*it seems that HC Dvr. Premveer 4036/PCR applied the break to avoid accident but no space left. HC Dvr. Premveer 4036/PCR is ready to bear the expenses of the repair of K-7.*" It was also noted by the Inspection Team that no one was injured in the accident.

5.1 Shri Tripathi contended that one of the co-passengers in the vehicle, namely, H/C Jaiprakash in his written statement dated 08.12.2013 had clearly stated that had the applicant not applied the emergency brake, the vehicle would have fallen off the flyover on the right side and that because of the alertness and application of mind on the part of the applicant a major accident was averted. He thus argued that despite utmost care and caution exercised by the applicant, the minor accident could not be averted and that the circumstantial factors were responsible for the accident over which the applicant had no control.

6. *Per contra*, Shri M.K. Singh submitted that the applicant himself had admitted before the Inspection Team that he was ready to bear the expenses of the repair. Shri Singh accordingly tried to argue that the applicant would not have made such a statement had he not realized that he was at fault. Shri Singh, however,

agreed that at the time of the accident there was foggy condition in the atmosphere which had caused low visibility conditions.

7. I have considered the arguments of the learned counsel for the parties and have also perused the pleadings. It is an admitted position that at the time of the accident on the Sarita Vihar flyover, the visibility has considerably dropped down due to atmospheric fog. The low visibility resulted in several vehicles colliding with each other. The applicant has vividly explained the prevailing condition. He has said that a truck was coming from behind and he had to avoid collision with the truck and in the process his vehicle hit the vehicle in front. It was because of his presence of mind that the major accident was averted. These averments of the applicant have been duly corroborated by H/C Jaiprakash in his written statement.

8. I have carefully gone through the impugned Annexures A-7 and A-1 orders as well as the Annexure A-4 SCN issued to the applicant. The SCN simply describes the scenario of the accident and damage caused to the vehicle. It does not indicate in what manner the applicant was found to be careless and failed in his duties. The reply of the applicant to the SCN as well as the statement of co-passenger H/C Jaiprakash have also not been dealt with in the impugned Annexures A-7 and A-1 orders passed by the DA and AA respectively. Hence, I am of the view that these orders

are not at all speaking orders and they are not sustainable in the eyes of law.

9. In view of the above, Annexures A-1 and A-7 orders are quashed and set aside being non-speaking orders. The respondents are at liberty to pass fresh orders, if they so desire, in which they should deal with the points raised by the applicant in his Annexure A-5 reply to the SCN, as also the written statement of co-passenger H/C Jaiprakash. The OA accordingly stands disposed of.

10. There shall be no order as to costs.

**(K.N. Shrivastava)  
Member (A)**

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