

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.3811/2013

New Delhi this the 29th day of March, 2016

**HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J)
HON'BLE MR. SHEKHAR AGARWAL, MEMBER (A)**

Inspector Vijendra Pal
 Inspector No.D-I/374, PIS
 S/o Shri Ram Richpal Sharma
 R/o 143, Arthla, Mohan Nagar,
 Ghaziabad, UP-201007
 Presently posted at Outer District,
 Group 'B', Aged 56 years.Applicant

(Argued by: Mr. Sourabh Ahuja)

Versus

1. GNCT of Delhi
 Through Commissioner of Police,
 Police Head Quarters,
 I.P. Estate, MSO Building,
 New Delhi.
2. Joint Commissioner of Police.
 South Eastern Range,
 Through Commissioner of Police,
 Police Head Quarters,
 I.P. Estate, MSO Building,
 New Delhi.
3. Deputy Commissioner of Police,
 North East District,
 Through Commissioner of Police,
 Police Head Quarters,
 I.P. Estate, MSO Building,
 New Delhi.Respondents

(By Advocate : Mrs. Sumedha Sharma)

ORDER (ORAL)

Justice M. S. Sullar, Member (J)

The epitome of the facts and material, exposed from the record, relevant for deciding the core controversy involved in the instant Original Application (OA), is that applicant, Inspector, Vijendra Pal was posted w.e.f. 21.09.2009 to 16.12.2010 as

Station House Officer (SHO) of Police Station, South Rohini. During the period of his posting, many vehicles were stolen, but he (applicant) did not act promptly and considerably delayed the registration of Motor Vehicle Theft (MVT) cases in his Police Station. Consequently, he was served with a notice dated 31.08.2010 (Annexure-1) for minor penalty to show cause as to why his conduct be not Censured. The applicant did not bother to file reply to the said Show Cause Notice (SCN).

2. Finding no alternative and taking into consideration the totality of the facts & circumstances, the competent authority concluded that applicant had failed to discharge his duty as supervisory officer to ensure that FIR in MVT cases be registered promptly, without any delay and Censured his conduct vide impugned order dated 31.03.2011 (Annexure A-2), which, in substance, is as under:-

“ORDER”

A Show Cause Notice for Censure was issued to Insp. Vijender Pal, No. D-I/374 (PIS No. 16810018) vide DCP/Outer District's office No. 9433-34/HAP/OD dated 31.08.2010 for his grave misconduct, negligence, carelessness and dereliction in discharge of his official duties in that on perusal of case FIRs of the cases of MVT registered since 15.6.2010, it has been noticed that the following cases of Police Station South Rohini have been registered after a considerable delay, mentioned against each, on the pretext that the complainant himself was searching the stolen vehicles.

FIR NO.	TIME/DATE OF OCCURRENCE		TIME/DATE OF REGISTRATION OF FIR		DELAY TIME
	TIME	DATE	TIME	DATE	
192	2200	31.05.2010	0710	19.06.2010	19
193	2100	17.06.2010	1100	20.06.2010	03
194	1730	07.06.2010	1020	21.06.2010	41
201	1400	16.05.2010	0930	25.06.2010	39

202	1700	15.06.2010	0015	26.06.2010	11
205	1320	16.06.2010	0045	27.06.2010	11
206	1000	20.06.2010	0015	28.06.2010	08
208	2000	17.06.2010	2010	29.06.2010	12
209	1400	17.06.2010	0900	30.06.2010	13
211	2030	20.06.2010	0655	02.07.2010	12
215	0015	27.06.2010	1115	04.07.2010	07
222	1120	04.07.2010	1300	10.07.2010	06
225	0700	07.07.2010	1305	14.07.2010	07
227	2222	05.07.2010	1150	15.07.2010	10
236	2130	16.07.2010	1345	22.07.2010	06
242	1200	15.07.2010	1150	25.07.2010	10
245	0630	13.06.2010	1410	26.07.2010	43

The above act on the part of Insp. Vijender Pal, No. D-I/374, the then SHO/ South Rohini amounts to gross negligence, carelessness,(sic) irresponsible attitude and dereliction in the discharge of his official duties.

The show cause notice for censure was sent to ACP/Rohini to deliver the same to him, but he neither acknowledged the SCN nor sent his written reply, despite issue reminders. Hence, he was called in orderly room and heard in O.R. on 30.3.2011. It is (sic) abundantly clear that he has nothing plausible defence and accepted his misconduct silently. In his oral submission he accepted that there was delayed registration of MV theft cases as per prevailing practice. I have carefully gone through the evidence on record. There are clear cut directions of Worthy C.P. Delhi regarding prompt & immediate registration of FIR. But despite that directions were not followed and inordinate delay was found in registration of M.V. theft cases. So, there is no ambiguity in this regard. The fact of immediate registration is well in the knowledge of SHO, as he has admitted. Now it is the paramount duty of SHO to monitor PCR call register on daily basis. From the mere perusal of the cases, there is gross inordinate delay in registration of M.V. theft cases. However, this argument cannot be accepted and taken at par value.

In view of above stated reason, I have no hesitation to arrive at the conclusion that SHO has failed in discharging his duty as supervisory officer and failed to ensure that FIR in M.V. theft cases are registered promptly and without any delay. Therefore, show cause notice for censure issued to

Inspr. Vijender Pal, No. D-I/374 is confirmed and his conduct is censured.

A copy of this order be given to him free of cost. He can file an appeal to the Joint CP/NDR, New Delhi against the order within 30 days from the date of receipt of this order on a non-judicial stamp paper worth Rs.00.75 paisa enclosing a copy of this order, if he so desires.

Sd/- 31.03.2011
(SANJAY KUMAR JAIN)
DY. COMISISONER OF POLICE,
NORTH-EAST DISTT., DELHI".

3. Sequelly, the appeal filed by the applicant was dismissed as well, by means of impugned order dated 01.10.2012 (Annexure-3) by the Appellate Authority.

4. Aggrieved thereby, the applicant has preferred the instant OA to challenge the impugned show cause notice and orders mainly on the ground that, MVT cases were registered by the Duty Officers (DO) on the statement of complainants as and when they turned up to the Police Station for registration of the cases. Hence, there was no delay in registration of the cases. The complainants could not lodge the complaints immediately, as they had tried to search their vehicles on their own or they were out of station. The delay occurred as the complainants could not be contacted nor they visited the Police Station. As and when they came to the Police Station, their statements were recorded by the concerned Investigating Officer. According to the applicant neither he was at fault nor there was any mala fide on his part in delaying the registration of FIR.

5. The impugned orders were stated to be illegal, arbitrary, mala fide, unjustified, un-reasonable, in violation of, principles of natural justice and statutory rules and based on misreading/misinterpretation of the record.

6. Levelling a variety of allegations and narrating the sequence of events, in all, the applicant has claimed that the impugned orders were illegal, without jurisdiction, bad in law and were liable to be quashed. On the strength of the aforesaid grounds, the applicant sought quashing of the impugned show cause notice dated 31.08.2010 (Annexure-1), orders dated 31.03.2011 (Anneuxre-2) passed by the Disciplinary Authority and dated 01.10.2012 (Anneuxre-3) passed by the Appellate Authority in the manner indicated hereinabove, invoking the provisions of Section 19 of the Administrative Tribunals Act, 1985.

7. The contesting respondents refuted the allegations of the applicant and filed the reply wherein it was pleaded that a SCN for Censure was issued to the applicant for his grave misconduct, negligence, carelessness and dereliction in discharge of his official duty. He neither acknowledged the SCN nor sent any reply despite issuance of reminders. Hence, he was called in Orderly Room (OR) but he failed to project any probable defence, rather admitted that there was delay on his part in registration of MVT cases.

8. According to the respondents, there were clear cut directions of Commissioner of Police, Delhi to the SHOs regarding prompt and immediate registration of FIR, but the applicant has not followed the instructions.

9. Reiterating the validity of SCN and impugned orders, in all, the contesting respondents claimed that applicant was guilty of grave misconduct, negligence, carelessness and dereliction in discharge of his official duty. It will not be out of place to

mention here that they have stoutly denied all other allegations contained in the main OA and prayed for its dismissal.

10. Controverting the allegations of reply of the respondents and repeating the grounds contained in the main OA, the applicant filed the rejoinder. That is how we are seized of the matter.

11. 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, we are of the considered opinion that there is no merit and the instant OA deserves to be dismissed for the reasons mentioned herein below.

12. As is evident from the record, applicant being the SHO, had utterly failed to supervise and check the considerable delay, in registration of MVT cases. The perusal of the table depicted in the impugned order would reveal that the vehicle was stolen on 13.06.2010 whereas FIR No.245 was registered on 26.07.2010, i.e., after a delay of 43 days. Similarly, in another case, occurrence has taken place on 16.05.2010 whereas FIR No.201 was registered on 25.06.2010, i.e., after 39 days. In yet another case, occurrence had taken place on 31.05.2010 whereas FIR No.192 was registered on 19.06.2010, i.e., after 19 days. In this manner, there is a delay, ranging between 3 days to 43 days in registering the MVT cases in the Police Station, South Rohini [described in the impugned order].

13. Ex-facie, the main argument of learned counsel that the delay occurred on account of conduct of the complainants, as they did not come forward to lodge the FIR and so the applicant was not at fault, is not only devoid of merit but misplaced as well. It is not a matter of dispute that thefts of vehicles were immediately reported in the concerned Police Station, but even then FIRs were not promptly registered.

14. Moreover, as per the First Schedule of Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.PC”), all the relevant offences relatable to the property, contained in Chapter XVII, are cognizable and non-bailable. Section 154 of Cr.PC postulates, that every information relating to the commission of cognizable offence, if given orally to an officer in charge of a Police Station, shall be reduced to writing by him or under his direction, and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer, in such form, as the State Government may prescribe in this behalf.

15. As soon as such information of cognizable offence was received, then it was the statutory and mandatory duty of the officer incharge of the Police Station to register and investigate the case within the limits of his Police Station.

Meaning thereby, it was the statutory duty of the SHO to immediately register a cognizable cases of MVT and to promptly enquire and investigate them. The presence of the complainant was not at all essential at the time of registration of the case, contrary to what was pleaded and urged on behalf of the applicant.

16. Therefore, the applicant has miserably failed to supervise the prompt registration of cognizable offence of MVT cases, which indeed amounts to grave misconduct and dereliction of duty.

17. 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 instruction to his subordinate staff to maintain law and order in his area. He being the SHO, is suppose to be more vigilant and supervise the registration of MVT cases promptly as he was the overall incharge of the Police Station at the relevant time. Not only he has violated instructions of his superiors, but he has also failed to file the reply to the SCN dated 31.08.2010 (Annexure-1) despite repeated reminders, for the reasons best known to him. In case the applicant had probable defence to explain his conduct, then he should have filed his reply to the SCN. Even he admitted his fault in his OR before the Disciplinary

Authority. As such, this behaviour of the applicant amounted to misconduct and insubordination, which was not at all expected from a SHO of disciplined force of Delhi Police.

18. Therefore, the Disciplinary Authority has rightly Censured the conduct of the applicant and the Appellate Authority has recorded valid reasons to dismiss his appeal. The Disciplinary as well as Appellate authority have recorded cogent reasons and examined the matter in the right perspective. We do not find any illegality, irregularity or any perversity in the impugned order. Hence, no interference is warranted by this Tribunal.

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 in the obtaining circumstances of the case. No costs.

(SHEKHAR AGARWAL)
MEMBER (A)

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

Rakesh