

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

O.A./100/699/2014

With

R.A./100/6/2015 in OA.100/542/2014  
with  
O.A./100/542/2014

Reserved on: 30.08.2018

Pronounced on: 11.09.2018

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

**O.A./100/699/2014**

Shri Dalip Singh, Age 41 years  
Sub-Departmental Enquiry,  
S/o Shri Handu Ram Meena  
R/o R.J.F. 1157, Raj Nagar, Part-2  
Palam Colony, Delhi

... Applicant

(Through Shri Sachin Chauhan, Advocate)

Versus

1. Govt. of NCTD through  
The Commissioner of Police,  
Delhi Police, Police Headquarters,  
MSO Building, I.P. Estate,  
New Delhi
2. The Additional Commissioner of Police (Traffic),  
Through The Commissioner of Police,  
Delhi Police, Police Headquarters,  
MSO Building, I.P. Estate,  
New Delhi
3. The DCP Traffic (WR),  
Through the Commissioner of Police,  
Delhi Police, Police Headquarters,  
MSO Building, I.P. Estate,  
New Delhi

... Respondents

(Through Ms.Pratima Gupta & Ms.Sumedha Sharma,Advocates)

**R.A./100/6/2015 in O.A./100/542/2014**

Shri Rajender Singh, Age 54 years  
 S/o Shri Chaudhary Chan Sukh  
 R/o Village Ajaib, Teh. Mehan  
 Distt. Rohtak, Haryana

... Applicant

(Through Shri Sachin Chauhan, Advocate)

Versus

1. Govt. of NCTD through  
 The Commissioner of Police, DAP  
 Police Headquarters,  
 MSO Building, I.P. Estate,  
 New Delhi
  2. The Additional Commissioner of Police (Traffic),  
 Through The Commissioner of Police, DAP  
 Police Headquarters,  
 MSO Building, I.P. Estate,  
 New Delhi
  3. DCP Traffic (WR),  
 Through the Commissioner of Police, DAP  
 Police Headquarters,  
 MSO Building, I.P. Estate,  
 New Delhi
- ... Respondents

(Through Ms. Pratima Gupta & Ms. Sumedha Sharma, Advocates)

**ORDER****Mr. Ashish Kalia, Member (J)**

RA 6/2015 in OA 542/2014

For reasons stated therein, RA is allowed and OA is restored to its original number.

OA 699/2014 with OA 542/2014

O.A. 699/2014 and O.A. 542/2014 are based on same facts and, therefore, they are disposed of by this common order. Facts, however, have been extracted from O.A.699/2014.

2. On 12.10.2012, the applicant along with co-delinquent ASI Rajinder Singh, was dealt with departmentally on the following allegations:

"It is alleged that a complaint dated 30.08.2012 of Shri Amrit Kumar, on Facebook about unauthorized commercial operation of private Maruti Van bearing registration number DL2CV-3756 in carrying school children was received. The driver of van no. DL2CV-3756 was allegedly found by the complainant talking about bribe money with Ct. Dileep 4463/T on 30.08.2012 and when driver was allowed to leave without prosecution he took a photograph of van and constable and posted it on facebook page of DTP. ZO/ASI Rajender Singh No.2509/T under whose supervision Const. Dileep No.4463/T was working, was also present nearby, permitting unauthorized commercial operation of private vans for carrying school children and stopping and allowing it to go without prosecution. Surveillance was mounted by Inspr. SM Sharma of PRG near ITL Public School and RD Rajpal Public School falling in the area of DWK near PS Dwarka (South) on 03.09.12. During surveillance three private Maruti vans bearing number (1) DL2CV-3756 (9 children), (2) DL-9CS 2691 (9 children) and (3) DL-9CR-6595 (16 children) were found unauthorizedly carrying school children. The van No. DL2CV-3756 was again found being operated unauthorizedly carrying school children on 03.09.2012 and was prosecuted. Hence, this van was prosecuted only twice whereas it was plying unauthorizedly for about one and a half year in the said area.

The above act on the part of ZO of the area namely ASI Rajinder Singh No.2509/T (PIS No.28810033) and Const. Dileep No.4463/T (PIS No.28011114) permitting unauthorized commercial operation of private vans for carrying school children and stopping van no. DL2CV-3756 on 30.08.2012 and allowing it to do without prosecution, amounts to gross misconduct indulgence in corrupt practices and willful disobedience of orders of senior officers for ulterior motives which renders him liable to be dealt with departmentally under the provision of Delhi Police (Punishment & Appeal) Rules, 1980."

3. The enquiry was conducted and punishment of forfeiture of two years approved service temporarily for a period of two years was inflicted on both of them entailing subsequent reduction in their pay. Aggrieved by this order, they preferred appeal and the same was also rejected but the

punishment was reduced from forfeiture of two year service to forfeiture of one year service without cumulative effect temporarily. Hence the present OAs are filed.

4. The applicant has raised the following grounds in support of his OA:

- (i) No evidence has come on record and still the charge has been proved;
- (ii) Charges leveled are vague and indefinite;
- (iii) The Enquiry Officer (EO) has failed to record reasons in support of his findings;
- (iv) The deposition of Defence Witnesses (DWs) was not properly appreciated; and
- (v) The punishment has been inflicted on the basis of surmises and conjectures without any evidence.

5. Notices were issued and respondents have filed counter.

6. In reply, it has been submitted that joint enquiry was initiated against both the applicants on 12.10.2012, on a complaint dated 30.08.2012 received on Facebook from one Shri Amrit Kumar about unauthorized commercial operation of private Maruti Van bearing registration number DL-2CV-3756, carrying school children. The driver of van was found by the complainant Shri Amrit Kumar talking about bribe money with the applicant herein on 30.08.2012 and when the driver was allowed to leave without prosecution, he took a photograph of van and the applicant and posted the photograph on Facebook page of DTP.

7. The co-delinquent, under whose supervision the applicant was working, was also nearby, permitting unauthorized commercial operation of private vans for carrying school children and stopping/allowing it to go without

prosecution. Surveillance was mounted by Inspector S.M. Sharma of PRG near ITL Public School and RD Rajpal Public School falling in the area of Traffic Circle Dwarka near PS Dwarka (South) on 3.09.2012.

8. During surveillance three private Maruti vans bearing registration numbers DL-2CV-3756, DL-9CS-2691 and DL-9CR-6595 were found unauthorizedly carrying school children. From the records, it was found that the same van bearing registration no. DL-2CV-3756 was again found being operated unauthorizedly on 3.09.2012. Hence, the same van was prosecuted only twice whereas it was plying unauthorizedly for about one-and-a half years in the said area.

9. EO completed the proceedings and charges against the applicant and co-delinquent were proved. Tentatively agreeing with the findings of the EO, the same was served upon the applicant. The applicant submitted his representation against the findings of the EO. In his representation, he pleaded that he had not taken any bribe from the driver and further the complainant himself stated that he did not hear any conversation and later on came to know that the van driver was prosecuted on the same day. The driver of the van stated that after dropping the school children, he came back and was challaned for RC violation by the applicant on the same day and he paid Rs.2000/- as compounded fee. The applicant also produced DWs Shri Rajesh and Shri Deepak Kumar.

10. In a nutshell, the respondents tried to demonstrate that enquiry was done in accordance with the rules and prayed for dismissal of OA.

11. Rejoinder has also been filed reiterating the facts stated in OA.

12. Heard the learned counsel for the parties and perused the pleadings available on record.

13. Learned counsel for the applicant emphasized that neither the demand nor acceptance of bribe by the applicant has been proved by any of the witnesses. On the other hand, learned counsel for the respondents stated that it is not a case of acceptance of bribe. It is only a case of negligence on the part of the applicant under whose supervision and under whose nose the above said vehicles were plying illegally and have gone unnoticed by them for more than one-and-a-half years.

14. Learned counsel for the applicant in OA 699/2014 also submitted that the applicant was posted only for two months from July to August in the area. He further submitted that the driver was prosecuted on the same very day and thus, there is no iota of suspicion on him.

15. This Tribunal has limited scope of judicial interference in the enquiry proceedings. Unless the proceedings are perverse, biased or having no evidence at all, it cannot interfere. It is the independent duty of the EO to consider pros and cons and implications of deposition of witnesses and evaluate the same. During the course of hearing, learned counsel for the applicant also relied on **Bhoop Singh Vs. Union of India & ors.**, (1992) 3 SCC 136. We, however, are of the opinion that the ratio laid in Bhoop Singh (supra) is not attracted in the case in hand.

16. After going through records of this case and legal position cited by the counsel for the parties, there is enough evidence against the delinquent officials that taking into cognizance of the complaint placed on face book. A senior level officer was put surveillance and it was found true that these vehicles were plying illegally to ferry young school going children. If this could have done only for few days it is understandable and the vehicles were plying months together and there is enough evidence on record of the inquiry there is an illegal act was committed and which has gone unnoticed by the official deputed for this. It is also found that charge levelled against

the applicant is specific. There is no vagueness of charge levelled against the applicant as alleged and other grounds raised by the counsel for the applicant is also not having any force whatsoever.

17. In view of the above findings and the law laid down by the Hon'ble Apex Court in the case of *Sohan Pal v. Commissioner of Sales Tax and Anr. 1987 (3) SLR 802* which reads thus:

*“ The Tribunal not to sit as an appellate court over the disciplinary authority and is not to interfere in the findings of the facts – So long as there is some evidence to support the findings, neither on the question whether the charge is proved by evidence on record not on the question whether penalty imposed is justified or not.*

The Hon'ble Supreme Court in *B.C. Chaturvedi v. Union of India and Ors. 1996 (6) SCC 749* has held as under:

“Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of [Evidence Act](#) nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to re-appreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

The disciplinary authority is the sole judge of facts. Where appeal is presented. The appellate authority has co-extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. [In Union of India v. H.C. Goel](#) [(1964) 4 SCR 781], this Court held at page 728 that if the conclusion, upon consideration of the evidence, reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all...”

The Hon'ble Supreme Court in *Apparel Export Promotion Council v. A.K. Chopra AIR 1999 SC 626* held as under:

“The High Court appears to have over-looked the settled position that in departmental proceedings, the Disciplinary Authority is the sole Judge of facts and in case an appeal is presented to the Appellate Authority, the Appellate Authority has also the power/and jurisdiction to re-appreciate the evidence and come to its own conclusion, on facts, being the sole fact finding authorities. Once findings of fact, based on appreciation of evidence are recorded, the High Court in Writ Jurisdiction may not normally interfere with those

factual findings unless it finds that the recorded findings were based either on no evidence or that the findings were wholly perverse and/or legally untenable. The adequacy or inadequacy of the evidence is not permitted to be canvassed before the High Court. Since, the High Court does not sit as an Appellate Authority, over the factual findings recorded during departmental proceedings, while exercising the power of judicial review, the High Court cannot normally speaking substitute its own conclusion, with regard to the guilt of the delinquent, for that of the departmental authorities. Even insofar as imposition of penalty or punishment is concerned, unless the punishment or penalty imposed by the Disciplinary or the Departmental Appellate Authority, is either impermissible or such that it shocks the conscience of the High Court, it should not normally substitute its own opinion and impose some other punishment or penalty. Both the learned Single Judge and the Division Bench of the High Court, it appears, ignored the well-settled principle that even though Judicial Review of administrative action must remain flexible and its dimension not closed, yet the Court in exercise of the power of judicial review is not concerned with the correctness of the findings of fact on the basis of which the orders are made so long as those findings are reasonably supported by evidence and have been arrived at through proceedings which cannot be faulted with for procedural illegalities or irregularities which vitiate the process by which the decision was arrived at. Judicial Review, it must be remembered, is directed not against the decision, but is confined to the examination of the decision-making process.

Lord Halton in *Chief Constable of the North Wales Police v. Evans*, (1982) 3 All ER 141, observed : The purpose of judicial review is to ensure that the individual receives fair treatment, and not to ensure that the authority, after according fair treatment, reaches, on a matter which it is authorized by law to decide for itself, a conclusion which is correct in the eyes of the court."

Again in *Bank of India & Another v. Dogala Suryanarayana JT*. 1999 (R) SC 489 the Apex Court held that:

"Strict rules of evidence are not applicable to departmental inquiry proceedings. The only requirement of law is that the allegation against the delinquent officer must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravament of the charge against the delinquent officer."

18. We are of the considered opinion that no interference is called for in the present OA. The DE seems to have been conducted as per rules and fair opportunity has been granted to the applicant to defend himself. There is sufficient evidence available on record that the vehicles were plying in connivance with the traffic staff posted in the area.

19. For the reasons stated above and reiterating the rule of law by the Apex Court, the applicants have failed to make out a case in their favour. Accordingly, both the Original Applications, viz. O.A. 699/2014 and 542/2014 are, therefore, dismissed. No costs.

**(Ashish Kalia)**  
**Member (J)**

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