

**Central Administrative Tribunal
Principal Bench**

OA No. 1902/2013

This the 20th day of July, 2018

Hon'ble Mr. Pradeep Kumar, Member (A)

HC (Min.) Shishu Pal, Age-38 years,
PIS No.27970034,
S/o Late Sh. Sardar Singh,
D-29, Amar Colony,
Nangloi, Delhi-41.

... Applicant

(By Advocate: Mr. Sachin Chauhan)

Versus

1. Govt. of NCTD through
The Commissioner of Police,
PHQ, I.P.Estate,
New Delhi.
2. The Joint Commissioner of Police,
Northern Range through
Commissioner of Police,
PHQ, I.P.Estate,
New Delhi.
3. The Addl. Dy. Commissioner of Police,
Outer District through
Commissioner of Police,
PHQ, I.P.Estate,
New Delhi.

... Respondents

(By Advocate: Ms. Sangita Rai with Sh. Pradeep Singh Tomar)

ORDER (ORAL)

The matter came up for hearing earlier in the day when the counsel for applicants was not available and proxy counsel sought

for some more time which was granted. Subsequently, learned counsel for applicant as well as the respondents presented themselves and made arguments. The matter pertains to one Sh. Shishu Pal, who was working as Head Constable (Ministerial) in Delhi Police. It was alleged that while certain purchases of stationary items were made, the codal formalities under General Financial Rules were not observed as well as the procedure to invite quotations was also not observed. As a consequence of this, show cause notice dated 10.07.2008, was issued to the applicant as to why punishment of "censure" should not be imposed for these irregularities.

2. Earlier, an explanation was also called from the applicant for the same irregularities and he had submitted a reply also.

3. In reply to the show cause notice dated 10.07.2008 the applicant did not submit any explanation but invited attention to his reply submitted to the earlier notice of seeking his explanation. The applicant also drew attention to the discharge of duties by his superior officers in the process of purchase of these stationary items. The competent authority considered his reply and imposed the punishment of censure on 13.08.2008.

4. Being aggrieved, the applicant made an appeal to the appellate authority. The applicant was called for a personal hearing. However, the applicant chose not to appear for the personal hearing

and submitted that the pleas given in the appeal should be taken into account and decided. The appellate authority rejected the appeal vide orders dated 17.06.2010.

5. Subsequently, the applicant made a RTI application and based upon the RTI application he felt that his conduct during purchase, should not have led to disciplinary proceedings, as has happened in this case. Accordingly, the applicant made an appeal to the department. Since the department did not give reply to this appeal, he preferred an OA, which is the present matter under consideration.

6. The applicant also submitted an application seeking condonation of delay in filing the present OA.

7. The arguments of the learned counsel for applicant and the respondents were heard at length.

8. Learned counsel for applicant represented that the applicant has since been transferred from his post where the disciplinary proceedings were initiated. He further submitted that as per RTI reply referred above, the procedure being followed by the subsequent staff on duty, in procurement of stationary, is the same procedure what was followed by him and that this is the normal procedure. He followed this normal procedure. Moreover, the new staff is not being held guilty of following this procedure. Therefore, the same yardstick be applied to him also and disciplinary

proceedings are required to be quashed as there is no irregularity whatsoever.

Hence, it is the plea of the applicant that the procedure followed is the procedure and it cannot be said to be the irregular procedure. In support thereof, learned counsel for applicant has relied on the following judgments of Hon'ble Supreme Court:

(1) **Union of India and ors. vs. J.Ahmed**, 1979 (SCC (2) 286

(2) **The Government of Andhra Pradesh and ors. vs. A.Venkata Rayudu**, 2007 (1) SCC 338

(3) **Man Singh vs. State of Haryana and ors.**, Civil Appeal No.3186 of 2008.

9. As regards delay in submitting the appeal and also delay in filing the present Original Application before the Tribunal, it was submitted that time was consumed on account of RTI reply which he received subsequently and because he received several major and minor penalty charge sheets at that time, he was mentally occupied at that time.

10. Learned counsel for respondents drew attention to a judgment of **State of Uttaranchal and Anr. Vs. Shiv Charan Singh Bhandari and ors.**, (2013) 12 SCC 179, wherein Hon'ble Supreme Court had held that time delay is an important aspect and an application can be rejected merely on this point. Learned counsel

also relied on **D.C.S.Negi vs. Union of India and ors.**, SLP (C) No.7956/2011.

11. Now that the matter was heard at length, it is noted that certain irregularities had come to light which had led to the disciplinary proceedings and are subject matter of the present OA. As regards MA, the time delay is granted and MA is allowed.

12. As regards the subject matter of the OA wherein the disciplinary proceedings has been challenged, since the disciplinary authority had initially passed an order imposing censure and the appellate authority had also considered the matter and rejected the appeal, the disciplinary proceedings are taken to have reached its logical end, hence, the present OA is dismissed, along with a direction to the respondents to revisit the procedural instructions for purchase and remove ambiguity if any and issue necessary clarifications thereof, if needed.

(Pradeep Kumar)
Member (A)

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