CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1722 OF 2013
New Delhi, this the 4th day of May, 2018

CORAM:
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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Inspector Brijesh Namboori,
No.D/2985 (PIS No.16900031),
4th Bn.DAP,
Kingsway Camp,New Delhi …… Applicant

(By Advocate: Mr.Gyanendra Singh)

Vs.

1. The Commissioner of Police,
PHQ, MSO Building, ITO,
IP Estate, New Delhi.

2. The Deputy Commissioner of Police,
North East District,
Delhi.

3. The Joint Commissioner of Police,
South Eastern Range,
Delhi ……. Respondents

(By Advocate: Mr.Vijay Pandita)

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ORDER

Brief facts giving rise to the present O.A. are that the applicant was posted as SHO, P.S. Karwawal Nagar, Delhi, during the year 2011. On a perusal of the FIRs registered at PS Karawal Nagar, it was observed by the Deputy Commissioner of Police, North East District, Delhi (hereinafter referred to as 'Disciplinary Authority') that the dates of incidents of theft of vehicles in respect of the following FIRs were much earlier than the dates of

registration of FIRs, and the FIRs were registered with inordinate delay without assigning any reason:

Sl.No.	FIR No.	Date	U/S	Delay
1	124/11	26.04.2011	379 IPC	06 days
2	91/11	02.04.2011	379 IPC	42 days

Since the delay in registration of the FIRs in the above cases was in clear violation of the instruction issued by the Commissioner of Police stipulating that FIR in the case of theft of vehicle has to be registered as and when the incident is reported without any delay and the investigation has to be carried out, the Disciplinary Authority, vide show-cause notice dated 3.5.2011, called upon the applicant to show cause as to why his conduct should not be censured. The applicant duly submitted his reply to the above show-cause notice. After considering the materials available on record including the reply submitted by the applicant, the Disciplinary Authority did not accept the applicant's explanation and confirmed the show-cause notice by censuring his conduct for the lapse pointed out in the show-cause notice, vide order dated 18.8.2011(Annexure A/2). The appeal made by the applicant was rejected by the Joint Commissioner of Police, South Eastern Range, Delhi (hereinafter referred to as 'Appellate Authority'), vide order dated 23.10.2012 (Annexure A/1). Hence, the present O.A. was filed by the applicant praying for quashing the show cause notice and the orders passed by the Disciplinary and Appellate Authorities.

2. Resisting the O.A., the respondents have filed a counter reply.

3. I have carefully perused the records, and have heard

Mr.Gyanendra Singh, learned counsel appearing for the applicant, and Mr. Vijay Pandita, learned counsel appearing for the respondents.

4. It has mainly been contended by Mr.Gyanendra Singh, learned counsel appearing for the applicant that the departmental authorities have failed to consider in proper perspective the pleas raised by the applicant in his reply to the show cause notice as well as in his appeal petition. Therefore, the impugned show cause notice and orders are unsustainable and liable to be quashed.

5. *Per contra*, it has been submitted by Mr.Vijay Pandita, learned counsel appearing for the respondents that the conclusions have been arrived at by the departmental authorities on the basis of materials available on record and, therefore, there is no scope for the Tribunal to interfere with impugned show cause notice and orders passed by the departmental authorities. Mr.Vijay Pandita has also produced before this Tribunal a copy of the Standing Order No.145 dated 12.3.1980 issued by the Additional Commissioner of Police, Delhi Police Headquarters, regarding registration of FIRs at the Police Stations.

6. It is no more *res integra* that the power of judicial review does not authorize the Tribunal to sit as a court of appeal either to reappraise the evidence/materials and the basis for imposition of penalty, nor is the Tribunal entitled to substitute its own opinion even if a different view is possible. Judicial intervention is permissible only where (i) the disciplinary actions are initiated and taken by an incompetent authority, (ii) such actions

are in violation of the statutory rule or law, (iii) there has been gross violation of the principles of natural justice, (iv) there is proven bias and mala fide, (v) the conclusion or finding reached by the disciplinary authority is based on no evidence and/or perverse, and (vi) the conclusion or finding be such as no reasonable person would have ever reached.

7. In **B.C. Chaturvedi v. Union of India**, AIR 1996 SC 484, reiterating the principles of judicial review in disciplinary proceedings, the Hon'ble Apex Court has held as under:

> "12. 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 eye of the Court. When an inquiry is conducted on charges of a misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice be 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 office is guilty of the charge. The Court/Tribunal on its power of judicial review does not act as appellate authority to re-appreciate the evidence and to arrive at the 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 of 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.

8. In **High Court of Judicature at Bombay through its Registrar v. Shashikant S. Patil,** (2000) 1 SCC 416, the Hon'ble Supreme Court has held thus:

> "...Interference with the decision of departmental authorities can be permitted, while exercising jurisdiction under Article 226 of the Constitution if such authority had held proceedings in violation of the principles of natural justice or in violation of statutory regulations prescribing the mode of such inquiry or if the decision of the authority is vitiated by considerations extraneous to the evidence and merits of the case, or if the conclusion made by the authority, on the very face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above. But we cannot overlook that the departmental authority, (in this case the Disciplinary Committee of the High Court) is the sole judge of the facts, if the inquiry has been properly conducted. The settled legal position is that if there is some legal evidence on which the findings can be based, then adequacy or even reliability of that evidence is not a matter for canvassing before the High Court in a writ petition filed before Article 226 of the Constitution."

9. In **Government of Andhra Pradesh v. Mohd. Nasrullah Khan,** (2006) 2 SCC 373, the Hon'ble Apex Court has reiterated the scope of judicial review as confined to correct the errors of law or procedural error if it results in manifest miscarriage of justice or violation of principles of natural justice. In para 7, the Hon'ble Court has held:

> "By now it is a well established principle of law that the High Court exercising power of judicial review under Article 226 of the Constitution does not act as an Appellate Authority. Its jurisdiction is circumscribed and confined to correct errors of law or procedural error if any resulting in manifest miscarriage of justice or violation of principles of natural

> justice. Judicial review is not akin to adjudication on merit by appreciating the evidence as an Appellate Authority…..”

10. After having considered the facts and circumstances of the present case, as well as the findings recorded by the departmental authorities, in the light of the decisions referred to above, I have found no substance in the contention of Mr.Gyanendra Singh, learned counsel appearing for the applicant. The applicant has not disputed the factum of delay in registration of the FIRs. The Disciplinary Authority has clearly observed that despite clear direction issued by the Commissioner of Police, Delhi, regarding prompt registration of FIRs in motor vehicle theft case, inordinate delay was found in registration of MV theft cases by the applicant as SHO. It was the paramount duty of SHOs to monitor all PCR calls as well as DD entry on daily basis. After hearing the applicant in OR and considering the pleas raised by the applicant in his appeal petition, the Appellate Authority has clearly observed that the scrutiny of records indicated that the appellant was taking lame/manipulated excuse which was baseless and without any evidence. When MV theft case was reported to the appellant, he should have registered the case on the same day, but he did not bother to comply with the directions of the Commissioner of Police, Delhi. In the above view of the matter, the Disciplinary and Appellate Authorities cannot be said to have failed to consider the relevant points urged by the applicant in his reply to the show cause notice as well as in his appeal petition, and the conclusion arrived at by the Disciplinary and Appellate Authorities cannot be said to be perverse or based on no material/evidence.

11. In the light of what has been discussed above, I have no hesitation in holding that the O.A. is devoid of merit and liable to be dismissed. Accordingly, the O.A. is dismissed. No costs.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

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