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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.1328/2003

Thursday, this the 26th day of February, 2004

Hon'ble Shri Justice V. S. Aggarwal, Chairman
Hon'ble Shri S. K. Naik, Member (A)

ASI Chander Shekhar Joshi
s/o Late Shri Uma Pati Joshi
r/o 31, Ashoka Police Line
Kutilya Marg, New Delhi

..Applicant

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Commissioner of Police
PHQ, IP Estate,
New Delhi
2. Joint Commissioner of Police (Traffic)
PHQ, IP Estate, Delhi.
3. Deputy Commissioner of Police (Traffic)
R.K.Puram, New Delhi

..Respondents

(By Advocate: Smt. P.K.Gupta)

O R D E R (ORAL)

Justice V. S. Aggarwal:

The applicant is an Assistant Sub Inspector in Delhi Police. He was served with a notice to show cause and after considering the reply of the applicant, his conduct has been censured by the disciplinary authority on 27.11.2001. The applicant preferred an appeal which was dismissed on 17.1.2003.

2. By virtue of the present application, the applicant assails the above said orders and also seeks a direction to include his name in list E-I (Executive) from 18.3.2003 from the date the persons of his batch are stated to have been so promoted.

3. The petition has been contested. The reply has been filed.

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4. Learned counsel for applicant raises two submissions:-

- a) Rule 6 (2) of the Delhi Police (Punishment & Appeal) Rules, 1980 is ultra vires of the provisions of the Constitution and Delhi Police Act; and
- b) in the facts of the present case on basis of the show cause notice, which is vague and indefinite, no penalty could be imposed on the applicant.

5. After hearing the parties' learned counsel, we need not dwell into the first argument because, in our considered opinion, on basis of the second argument advanced at the Bar, the petition is liable to succeed.

6. The notice to show cause issued to the applicant reads:-

"During the course of surveillance conducted by the PRG staff/Traffic on 26.9.2001 at N.H.-24 in front of Mayur Vihar, Phase-II-T point, it was found that ASI Chander Shekhar Joshi, No. 4519/D, ZO, HC Ajaib Singh, No. 481/T and Const. Jai Singh No. 3185/T alongwith DHG Constable Sant Kumar No. 1880/DHG were involved in the malpractice of collecting illegal entry money from commercial vehicles. Four drivers of commercial vehicles were intercepted by the PRG staff. Three of them stated that illegal entry money was taken by the above traffic staff amounting to Rs. 50/- from each of them and fourth driver stated that illegal entry money of Rs. 120/- was taken by the above traffic staff from him. All the four vehicles were allowed to go after paying illegal entry money and no challan was done against these vehicles. This clearly shows that the Z.O. alongwith his subordinate staff was indulging in

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malpractice of collecting illegal entry money from commercial vehicles.

The above act on the part of ASI Chander Shekhar Joshi No. 4519/D, H.C. Ajaib Singh No. 481/T and Constable Jai Singh No. 3185/T amounts to gross misconduct, negligence, carelessness, malafide intention with ulterior motive and dereliction in the discharge of their official duties.

They are, therefore, called upon to show cause as to why their conduct should not be censured for the above said lapse. Their reply, if any, in this regard should reach the undersigned within 15 days from the date of receipt of this notice failing which it will be presumed that they have nothing to say in their defence and the matter will be decided exparte on merits."

7. The reply was filed and thereupon, the penalty of censure, referred to above, had been imposed.

8. The purpose of a show cause notice is to inform the person, who is alleged to have misconducted, about the nature of allegations against him. He must know as to what is the alleged misconduct, so that he can effectively reply. If the notice, by itself, is vague, indefinite and conveys hardly any fact, it would be unfair to act upon the same.

9. Identical is the position in the facts of the present case. The allegations against the applicant were pertaining to certain malpractice of collecting illegal entry money from commercial vehicles. The commercial vehicles are stated to have been intercepted and the money being charged. The allegations were serious but what has been conveyed, which we have reproduced above, leaves much to be desired. It does not show the time when the vehicles were checked. The number of vehicles,

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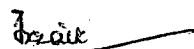
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which were checked, is anybody's guess. The drivers, who complained against the applicant and others, are unnamed, nor is it mentioned that where was this checking exactly done.

10. It is not the claim of the respondents that for certain reasons the names of the drivers had been kept as secret. In that view of the matter, in all fairness, better particulars should have been provided in the show cause notice. The applicant, therefore, was well within his rights to contend that in the absence of any particulars on this vague and indefinite show cause notice, no action was called for. We find ourselves, therefore, in agreement with the said argument.

11. Resultantly, we allow the present application and quash the impugned orders. The respondents can act in accordance with law. Simultaneously, we add that the claim of the applicant for inclusion in list E-I (Executive) can also be considered by the respondents in accordance with law.


(S. K. Naik)
Member (A)


(V. S. Aggarwal)
Chairman

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