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Central Administrative Tribunal, Principal Bench

O.A. No.1596 of 2003

New Delhi this the 25<sup>th</sup> day of March, 2005

**Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)**

H.C. Hardutt Singh  
Belt No.193/Cr.  
S/o Shri Balbir Singh  
R/o Quarter No.D-123 New Police Line  
Kingsway Camp,  
New Delhi.

...Applicant

By Advocate: In person.

Versus

1. Commissioner of Police  
(NCT of Delhi)  
Police Head Quarters,  
I.P. Estate,  
New Delhi.
2. Deputy Commissioner of Police  
Police Head Quarters,  
I.P. Estate,  
New Delhi.
3. Qamar Ahmed (Additional Commissioner/  
New Joint Commissioner of Police),  
Police Headquarters,  
I.P. Estate,  
New Delhi.
4. Shri C.B. Surtiya (ACP Computer),  
Crime Branch Computer Centre,  
PHQ, I.P. Estate,  
New Delhi.
5. Kuldeep Singh (Inspector Computer)  
Crime Branch Computer Centre,  
PHQ, I.P. Estate, New Delhi.

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6. Shivaji Chauhan (Inspector Computer)  
Crime Branch Computer Centre,  
PHQ, I.P. Estate, New Delhi.

.....Respondents

By Advocate: Shri Ajesh Luthra.

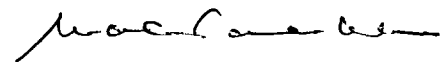
### **ORDER**

The applicant has assailed the award of punishment of censure in a disciplinary proceeding conducted against him under Section 5 of the Delhi Police (Punishment and Appeal) Rules, 1980.

2. The applicant is a Head Constable (Executive). He is working in Computer Centre as an Artist. He used to make sketches of the suspected criminal to help the police in investigation. On 26.4.2002 at about 11.05 A.M., the applicant went to the Assistant Commissioner of Police (Crime and Railway), Computer Centre and sought his permission to go home on the ground that he was suffering from pain in his abdomen. The ACP asked him to go to his Medical Attendant and if he was advised medical rest, he could go home. After half an hour when the ACP went to the Computer Centre, applicant was found sitting on his seat. The ACP enquired about his stomachache but the applicant lost temper. He misbehaved with the ACP in the presence of other subordinate police officers working in the Computer Centre and accused him of constant harassment. ACP served a show cause notice on 26.4.2002 which is Annexure A-6 and reads as under:-

“  
**Show Cause Notice**

You Hc. Har Dutt No.193/Crime which is posted in Computer Centre, Crime Branch today at about 11.05 AM appeared before the undersigned and asked to leave the office to go home on account of feeling pain. He was advised to go to hospital for medical check-up and in case be advised medical rest by the medical officer, then he may go home. After ½ an hour the undersigned visited the Computer Centre and HC Har Dutt sitting on chair. The undersigned again asked about the pain. But



you HC Har Dutt instead of reply, started misbehaving with the undersigned in the present of other staff of Computer Centre and also blamed for harassing him.

The above act on your part amounts gross undisciplined and misbehaviour which certainly unbecoming of a police officer.

You HC Har Dutt No.193/Crime are hereby called upon to show cause within 15 days of its receipt as to why your conduct should not be censured. Your reply if any should reach the undersigned within the stipulated period failing which it will be presumed that you have nothing to say in your defence and the case will be decided ex-parte.

3. The applicant sent its reply on 10.5.2002, which is Annexure A-7. It is in Hindi. It stated that earlier the applicant was found absent from duty for 25 minutes on account of his sudden illness and the Inspector had sent the papers to the ACP (Computer) recommending a lenient view to be taken since the applicant had suddenly fallen ill and he had also worked during his medical rest. The applicant was called to the office of the ACP 4 times. On 26.4.2002 also, the ACP asked the applicant to come later. The applicant then told the ACP that he wanted to go on leave since he had pain in the abdomen but the ACP did not believe that he was ill. The applicant was really ill. Twice he had to get treatment from the hospital in emergency. On 18.3.2002, the doctor did not advise three days' medical rest to him as a result the applicant was forced to attend to his duties in the office despite his illness. On 26.4.2002, the applicant was not medically fit to work and when he was not allowed leave for treatment, during the lunch period he went to the emergency department of the hospital. The applicant did not say anything to the ACP except that he was really ill. He refuted accusation made against him in the show cause notice. The applicant was, in fact, ill and to prove it he was filing copy of prescription of emergency department. The applicant was still under treatment. The

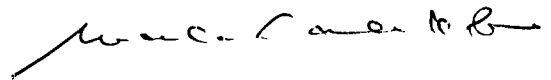
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applicant may be allowed to see the DCP (Crime and Railway) so that he could apprise him of the true facts.

4. The disciplinary authority, ACP/Computer Centre (Crime and Railways) considered the reply to the show cause notice and held that the applicant had misbehaved with him openly in the presence of other subordinate staff which is a breach of discipline and an act unbecoming of a Police Officer. He held him guilty and awarded punishment of censure for the misconduct. An appeal filed by the applicant assailing this order was dismissed by the Additional Commissioner of Police (Crime), Delhi by his order dated 23.11.2002. The revision filed by the applicant against this order was not entertained on the ground that Commissioner of Police did not have revisional powers.

5. The applicant is aggrieved by the order of the disciplinary authority and the appellate authority and has challenged them in this OA.

6. The respondent Nos.1, 3, 5 and 6, who were Commissioner of Police, Additional Commissioner of Police (Appellate Authority) and Inspectors (Computer) (Crime Branch Computer Centre), in a joint reply have refuted the allegations of the applicant. According to them the applicant went to the ACP/Computer Centre and sought permission to leave the office to go home on the ground that he was feeling pain in his abdomen. He was advised to go to the hospital for medical check-up and in case he was advised medical rest by the medical officer then he could go home. But after half an hour when the ACP/Compute Centre visited the Computer Centre, the applicant was found sitting in the chair. The ACP inquired about his pain, but instead of giving an answer, he started misbehaving with the ACP in the presence of the other subordinate staff in the Computer Centre and he also accused him of harassment. The reply to the show cause



notice served on the applicant was duly considered. The applicant never sought opportunity of personal hearing before the ACP but he wanted to appear before the DCP. The applicant went to L.N.J.P. Hospital subsequently but was not advised medical rest. Further, the applicant did not apply for leave for 26.4.2002 but had applied it for 29.4.2002, which was declined. Other allegations of the applicant were also denied.

7. In a separate reply the respondent No.4, ACP/Computer Centre (disciplinary authority), has refuted the allegations of the applicant that he had given any threat of spoiling the ACRs or career of the applicant or that he had mala fide intention to harm the applicant. Other allegations have also been denied.

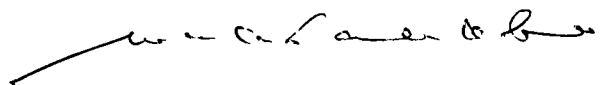
8. The applicant in the rejoinder reiterated his own allegation and denied those of the respondents.

9. We have heard the learned counsel for the parties and we have carefully perused the record.

10. Disciplinary proceedings were initiated against the applicant in respect of the incident dated 26.4.2002. The applicant who was working in Computer Centre came to attend the duties but around 11.00 A.M., he went to the ACP in-charge of the Computer Centre and sought his permission to leave for home on the ground that he was suffering from pain in his abdomen. According to the respondents, the applicant was advised to see the medical officer and if he was advised rest, he could go home. After half an hour when the ACP went to the Compute Centre, he found the applicant still there. It is alleged that the ACP enquired from the applicant about his pain and the applicant instead of giving answer, started misbehaving with the ACP in the presence of other subordinate police officers who were present in the Centre. A show cause notice was served on the

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applicant for this act of indiscipline. The applicant denied that he had misbehaved with the ACP. However, he had not denied that he went to the ACP for permission to go home on the ground that he was sick and suffering from pain in the stomach. Counsel for the applicant submitted that the applicant was really sick and he had submitted an application for grant of leave on 26.4.2002 but the same was rejected. He drew attention to Annexure A-3, which is an application submitted by the applicant on 26.4.2002. In the application it was stated that the applicant was not well and wanted to go home so that he could get treatment. He requested that he should be granted casual leave for 29.4.2002 and station leave permission for Saturday and Sunday falling on 27<sup>th</sup> and 28<sup>th</sup> of April, 2002. The applicant seems to have been recommended by his immediate superior, but it was rejected by the Inspector in-charge of the Computer Centre and was not forwarded to the ACP (Computer Centre). Counsel further referred to the prescription of LNJP Hospital of the same date which showed that the applicant was suffering from pain in the abdomen and loose motions for three days. He was given some medicines and advised to attend the OPD the next day. He then referred to D.D. entry No.5 dated 26.4.2002, Annexure A-4 which showed that the applicant had gone to JNJP Hospital where some ECG was done and the Duty Constables in the hospital had informed the concerned officers. This document further showed that SI Sajjan Singh and HC Ajay Singh were sent to LNJP Hospital to look after the applicant but after the ECG was taken, the applicant was discharged and he was advised to attend the OPD for detailed examination on 27.4.2002. Annexure A-5 is also an OPD card of a CGHS dispensary dated 26.4.2002 where the doctor had prescribed some medicines for him. Argument of the learned counsel for the applicant is that the applicant was not pretending to be sick but was



actually sick, still he was denied short leave, which is ordinarily allowed after 12 noon. According to him for such a short leave, leave application was not required.

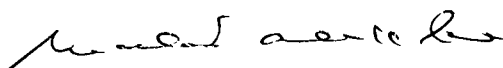
12. Contention of the applicant that he had submitted application for leave on 26.4.2002 is belied by his own document, AnnexureA-3. Annexure A-3 showed that the applicant had requested for grant of casual leave for 29.4.2002 and permission for station leave on 27<sup>th</sup> and 28<sup>th</sup> April, 2002 which happened to be holidays on account of Saturday and Sunday. The applicant, as such had not applied for causal leave for 26<sup>th</sup> of April, 2002. Admittedly, he was denied permission to go home on 26.4.2002. It has also not been denied that the applicant went to CGHS dispensary and the LNJP Hospital on 26.4.2002 after lunch. He was not admitted there nor had the doctor advised him medical rest. Rather after conducting ECG and prescribing some medicines, he was asked to attend the OPD next day for detailed examination.

13. The charge against the applicant is that he had misbehaved with the ACP when he went to the Computer Centre and enquired about his pain in the abdomen. The applicant in his representation has admitted that the ACP has come to the Computer Centre but had denied that he had misbehaved with him. At the same time he has also stated that although he was sick but the ACP was not ready to believe him. Though the counsel for the applicant submitted that short leave on the ground of sickness should not have been refused as per the standing departmental instructions, yet he has not been able to produce such instructions.

14. The applicant wanted to leave the Computer Centre on the ground that he was suffering from pain in his abdomen. The ACP in-charge of the Computer Centre did not grant him this permission. The ACP served a show cause notice on the applicant for

*He was not ready to believe*

taking disciplinary proceedings for minor punishment on the ground that he has misbehaved with him in the Computer Centre in the presence of subordinate staff, which is an act of gross indiscipline. The ACP being disciplinary authority had discretion to decide about holding of inquiry. He adopted summary procedure. The applicant never sought opportunity to produce evidence or an oral hearing. He wanted to see the DCP not the disciplinary authority. Counsel for the applicant, however, drew attention to Annexure A-14 which is dated 18.7.2002 and is alleged to have been written by Ms. Meenakshi daughter of Head Constable to Mrs. Kiran Bedi. It is in the form of a letter but to whom it has been addressed has not been mentioned. It says that her father was being mentally harassed unnecessarily by the ACP and that he was mentally disturbed. The next letter is also dated 18.7.2002 and is written by the HC Babli of Computer Centre wherein it was stated that the ACP wanted her (H.C Babli) to give false statement against HC Hari Dutt which she refused to give and since then she was being harassed on one or the other pretext. She accordingly sought her transfer to East District. According to the respondents, no such letter was received in the office of the respondents. It is also not understood how this letter could be given to the applicant and not to proper authority who was competent to transfer this lady Head Constable. Both these letters are dated 18.7.2002, i.e., long after the incident of 26.4.2002. The order of the disciplinary authority impugned in the OA is dated 19.6.2002. These letters having written much after the penalty imposed on the applicant would not show that the disciplinary proceedings were mala fide or false.





15. In the first ground pleaded in the OA the applicant has alleged that as per the order of the disciplinary authority, the applicant could not have been permitted to go home unless he was advised medical rest by the competent medical attendant as per medical attendance roster/rules but the particular rule was not quoted. It was further submitted that at the same time the appellate authority in its order observed that the Government servant could go on leave without rest prescribed by the doctor in case of his illness. So the view of the disciplinary authority and the appellate authority are contradictory. The applicant seems to have not correctly read the two orders. The disciplinary authority had observed in its order that a Government servant could not be permitted to go home unless he is granted medical rest by the competent medical authority and that the applicant allegedly obtained an OPD prescription from the LNJP Hospital but the doctor had not advised medical rest. The appellate authority, on the other hand, had observed that in case the applicant was not well, he should have gone to a doctor and had taken rest for going home. He could go for rest also without the prescription of the doctor but after taking casual leave. There is no contradiction between the views of these two authorities.

16. The next ground pleaded by the applicant in the OA is that the punishment of censure awarded to the applicant was in violation of Delhi Police (Punishment & Appeal) Rules, 1980, Police Commissioner's SO No.14, CCS (Leave) Rules, 1944, 11.2, 11.2/2 and 11.2/3 and the principles of natural justice and public policy. However, he has not been able to show that any of these rules applicable in his case have been contravened.

17. Yet another ground pleaded by the applicant is that the respondent No.4, the disciplinary authority, was adopting dual policy. While he was punished on asking for

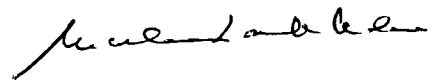
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sick leave but at another time he was allowed 3 days leave in the same circumstances. On 26.4.2002, the applicant has not submitted an application for casual leave, therefore, the question of its grant or refusal did not arise. The casual leave for 29.4.2002 which he had asked for was, however, rejected by his superior inspector, who according to the applicant, is competent to grant or refuse the casual leave. It is also not disputed by the applicant that he was availing casual leave which were being sanctioned to him.

19. According to the applicant he was denied his right to seek leave when it was expected of the supervisory officers to provide a transport with attendant in case the applicant was ill. It is not understood in what context this ground has been pleaded. It is not a case of the applicant that he became so seriously ill in the Computer Centre that it became necessary for him to be removed to a hospital and the superior officers did not make an arrangement for his going to the hospital.


20. The next ground is that the punishment is not in accordance with the various judgments and orders passed by the Hon'ble Supreme Court and the High Courts.

21. The disciplinary authority has held that the applicant had misbehaved with the ACP (C&R) in the presence of the other subordinate police officers present in the Computer Centre and as such was guilty of indiscipline and his conduct was unbecoming of a police officer. The punishment of censure in the facts and circumstances of the case by no reasoning could be considered not commensurate with the gravity of the proven charge. The Tribunal even otherwise has no power and jurisdiction to interfere with the amount of punishment unless it is grossly disproportionate to the seriousness of the charge or is shocking to the conscience of the court. In the present case, the applicant committed breach of discipline and the disciplinary authority in its wisdom, awarded him



minor penalty of censure, which does not warrant any interference from the Tribunal.  
(See Devi Singh Vs. Punjab Tourist Development Corporation Fed. And Another,  
{2003} 8 SCC 9 and Danoh Panna Sagar Rural Regional Bank and Another Vs. Munna  
Lal Jain, 2004 {10} SCALE 590).

22. Having regard to the above discussion, there is no merit in the application and it is  
dismissed but without any order as to costs.

  
(M.A. Khan)  
Vice Chairman (J)

Rakesh