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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 2417/2003

New Delhi this the 12th day of January, 2005

Hon'ble Mrs. Meera Chhibber, Member (J)

Inspr. R.N. Sharma, No. D-I/795,
TI/Rohini Traffic Circle, New Delhi.

.... Applicant.

(By Advocate Shri U. Srivastava)

Versus

Govt. of NCT Delhi through

1. The Chief Secretary,
Govt. of NCT Delhi, Old Secretariat,
New Delhi.
2. The Commissioner of Police,
Police Headquarters,
I.P. Estate, New Delhi.
3. The Joint Commissioner of Police,
Traffic, Delhi.

... Respondents.

(By Advocate Shri Ajesh Luthra)

ORDER (ORAL)

By this O.A., the applicant has challenged the show cause notice dated 14.9.2001, order dated 01.02.2002 whereby his conduct has been censured and order dated 09.06.2003 whereby his appeal has been rejected.

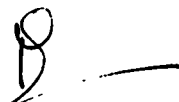
2. It is submitted by the applicant that he was given summary of allegation on 17.03.2001 along with ASI Krishan Swaroop No.2122/T and Const. Shyam Dutt Joshi No. 3003/T, on the ground that he had failed to supervise his subordinate staff properly as the staff under his supervisory control were allowed to indulge in malpractices (page 25). He gave his reply, on the basis of which disciplinary proceedings against him were dropped on being satisfied with his reply, vide order dated 14.09.2001 (page 28) yet by a separate

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order show cause notice was issued on the same date, dated 14.09.2001 calling upon him to show cause on the same very allegations which were the subject matter of summary of allegation as to why his conduct should not be censured for having failed to supervise the subordinate staff properly and allow them to indulge in malpractices (page 22). The applicant gave his detailed reply (page 29) stating therein that the traffic staff at Rohini Circle was regularly briefed not to indulge in nefarious activities and a D.D. entry was made and got noted by the staff to this effect as well. He further explained that in November, 2000, he was busy in traffic regulation in the affected areas due to the demonstrations and procession against the closing of the illegal factories in the area of Rohini. Therefore, he could not supervise the activities of the staff working under him at the alleged place where they are said to have indulged in extracting money from the commercial vehicles. He also assured that such a thing would not be repeated in future in his circle. The disciplinary authority, however, vide order dated 01.02.2002 confirmed the notice and censured the conduct of applicant, on the ground that he had not been able to control his staff in his supervisory role. Being aggrieved, he gave a detailed appeal but even that was rejected vide order dated 09.06.2003.

3. Counsel for the applicant challenged show cause notice and these orders on two grounds; (1) that once the summary of allegation against the applicant was dropped by the disciplinary authority, they could not have issued another show cause notice on the very same allegations; (2) that since applicant was performing his duty at some other place and if any thing was going on in another part of the area in his responsibility, that too without his knowledge, he cannot be punished for the misconduct of staff under him done in their individual capacity.

4. Respondents on the other hand submitted that since the staff working under him had indulged in extracting money from the vehicles illegally and he had failed to control the staff under him and had not even exhibited any moral courage to expose the lapses and malpractices of his subordinates, therefore, it was clear that applicant had not taken his



supervisory role and responsibility seriously. Hence, he has rightly been censured and his appeal has been rejected by the appellate authority. As far as the issuance of show cause notice is concerned, they submitted that while dropping the summary of allegation against the applicant, it was made clear that the matter is being delinked as far as the applicant is concerned by mentioning that it is without prejudice to any other action against him to be contemplated separately. Therefore, the DE against the applicant was not dropped on merits or after adjudication but was dropped only for taking up the matter separately. The show cause notice was issued for minor penalty against the applicant while the two persons were being dealt with for major penalty ^{by it} ~~for~~ issuance of summary of allegation against them. To substantiate his argument, he relied on All India Service Law Journal 2002 (3) 448 (Principal Bench) and All India Service Law Journal 1987 (1) 537 (Chandigarh Bench).

5. I have heard both the counsel and perused the pleadings as well.

6. It is seen that initially summary of allegation was issued against the applicant as well as ASI Krshan Swaroop and Constable Shyam Dutt Joshi, on the following grounds:

“It is alleged against ASI Krishan Sawrup No. 2122/T and Const. Shyam Dutt Joshi No. 3003/T that while posted in Rohini Traffic Circle on 19.11.2000 they were found present to left side road at Mangol Puri crossing and found indulging in malpractices by collecting illegal money from commercial vehicles. At about 2.15 P.M. Ct. Shyam Dutt Joshi No. 3003/T signalled to stop Truck No. DNG-0252. Const. Shyam Dutt Joshi approached the truck and took the driver Sh. Balwinder Singh S/Sh. Balbir Singh R/o Village Gulwara P.O. Khas, PS Taran Tara Distt. Amritsar Punjab to Z.O. ASI Krishan Swarup who after challaning the vehicle u/s 99.1 DMVR/177 MVR vide challan Sl. No. 539726 demanded Rs.150/- out of which Rs.100/- for compounding amount of challan and Rs.50/- as entry money and too Rs.150/- from the driver of above truck. The same was kept in left side front pocket of uniform shirt, Z.O. ASI Krishan Sawrup No. 2122/T was caught red handed on the spot by PRG team and on whose personal search total amount Rs.2100/- was recovered from the left side front pocket of his uniform shirt which include the signed currency notes amounting Rs.150/- collected from the above truck driver. On scrutiny of his challan book it was found that he had made only 19 challans on that date till that time and each was cash challan for Rs.100/- only. Thus Rs.200/- found in excess were collected illegally from commercial vehicles as entry fee. The amount of

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Rs.200/- was seized through seizure memo, and evidence, Additional amount of Rs.950/- found in his purse was returned to him as the amount was claimed to be his personal money.

From the above facts, it is clear that Inspr. Ram Niwas No. D-I/795, TI/RHN being supervisory officer failed to supervise his subordinate staff properly and thus the staff under his supervisory control were allowed to indulge in malpractices”.

Subsequently, the respondents delinked and dropped the proceeding against the applicant as he was to be charged only in a supervisory role by making it clear that it would be without prejudice to any other action against him to be contemplated separately. From the perusal of this order, it is clear that the proceedings against the applicant were not dropped on merits but for delinking the same from other two persons and for taking up the action against him separately. In these circumstances, if subsequently respondents issued show cause notice to the applicant on the same allegations, no illegality can be found in the issuance of the said show cause notice because neither the summary of allegation was dropped on merits nor the same was adjudicated upon but the same was dropped for taking up the matter against the applicant separately and since against him the only charge was failure to supervise his subordinate staff, therefore, respondents in their wisdom thought at best that they could take up the matter against him for a minor penalty. They accordingly issued a show cause notice only. In view of the above discussion, the first contention of the applicant is rejected.

7. Coming to the merits of the case, a perusal of the summary of allegation which has been quoted above, shows that two persons, namely, ASI Krishan Swaroop and Constable Shyam Dutt Joshi posted in Rohini Traffic Circle were caught red handed while collecting illegal money from commercial vehicles at about 2.15 p.m. on 19.11.2000. They were caught and excess money was recovered from their persons which included the signed currency notes, amounting to Rs.150/- collected from the truck driver. In the show cause notice also, exactly the same allegations are made that the amount of Rs.150/-, including the signed currency notes were recovered from ASI



Krishan Swaroop. The said amount was seized through a seizure memo. It was in these circumstances that applicant was called upon to explain as to why he should not be censured for having failed to supervise his subordinate staff properly. It is seen from the reply of applicant that on the said date he was busy in regulating the traffic at a different place due to some demonstrations and procession going on at Avantika Chowk and Stone Market, on Kanjawala Road, meaning thereby that he was on a different place doing his duty when the two persons, namely ASI Krishan Swaroop and Constable Shyam Dutt Joshi indulged in extracting money from the commercial vehicles. It is not the case of respondents that the staff working under applicant were repeatedly indulging in extracting money from the commercial vehicles or otherwise nor is it the case of respondents that they took money from the commercial vehicles in the presence of applicant on the same spot. When applicant was ^{doing his} ~~given~~ his duty at different place, naturally he would not even have known what is being done by these two persons at a different spot in their personal capacity. It is also not the case of respondents that the said persons had given any statement that the amount was being extracted either with the full knowledge of traffic inspector or in connivance with him. Therefore, in these circumstances, it cannot be sustained that applicant should be made to suffer for the misconduct committed by some persons working under him in their own individual capacity. One could understand if he was present on the same spot while these two persons were indulging in these nefarious activities but that is not at all the case of the respondents. In the order passed by the disciplinary authority, it is observed that applicant did not have moral courage to expose the lapses of mal practices of his subordinates but once again it is not the charge against the applicant in the show cause notice that there were repeated complaints against the staff working under him for having extracted money from the commercial vehicles nor is it the case of respondents in show cause notice that applicant did not expose the subordinates knowing fully well that they were indulging in these activities. Therefore, in these circumstances when the charge



against the applicant is not to the effect as mentioned above, I am satisfied that there was no justification to censure the conduct of applicant when he was neither away of the said incident being away at a different place and doing his duty in regulating the traffic while the two persons indulged in extracting the money without his knowledge in their own individual capacity. Since this aspect has totally been ignored by disciplinary as well as appellate authority, both the orders dated 01.02.2002 and 09.06.2003 are quashed and set aside. O.A. is accordingly allowed with no order as to costs.



(MRS. MEERA CHHIBBER)
MEMBER (J)

'SRD'