
(2013) 01 DEL CK 0094
In the Delhi High Court
Case No : W.P. (C) 7776/2010

Commissioner of Police

APPELLANT

Vs

H.C. Fateh Singh

RESPONDENT

Date of Decision : 31-01-2013

Acts Referred:

Citation : (2013) 01 DEL CK 0094

Hon'ble Judges : Veena Birbal, J;Pradeep Nandrajog, J

Bench : Division Bench

Judgement

Pradeep Nandrajog, J.—Allowing O.A. No. 79/2008 and as a result quashing the penalty levied upon the respondent, the reasoning of the Tribunal as per the impugned order dated August 17, 2009 reads as under:-

Rule 16(ix) of Delhi Police (Punishment & Appeal) Rules, 1980 clearly provides that in case the different charge than what has been framed against the police officer is made out, it is incumbent upon the inquiry officer to include it in the charge and thereafter a reasonable opportunity to rebut effectively is to be given. As the aforesaid procedure has not been followed, applicant has been prejudiced and this methodology adopted by the respondents is not found favour with by the Apex Court in M.V. Bijiani V. Union of India & others, 2006 (3) SLR SC 105.

Suffice would it be to state that the taint found by the Tribunal is the non-compliance with sub-Rule (ix) of Rule 16 of "The Delhi Police (Punishment & Appeal) Rules 1980".

2. The rule in question mandates that if during inquiry, with reference to the summary of allegations the inquiry officer finds that in view of the evidence led a charge other than the one which constituted the substratum of the summary of the allegations is made out, he may record findings on such charge provided that findings on such charge shall be recorded if the accused officer had admitted the fact which constituted the charge or had an opportunity of defending himself

against them.

3. We note that as per The Delhi Police (Punishment & Appeal) Rules 1980, a disciplinary proceedings commences with a Summary of Allegations being drawn up and supplied to the charged officer followed by department leading the prosecution evidence and if the indictment stands a formal charge to be drawn up requiring, if desired by the charged officer, with an opportunity of leading defence evidence.

4. In the instant case the summary of allegations read as under:-

It is alleged against HC Fateh Singh, No. 421/T that on 04.03.06 while posted in Narela Traffic Circle and detailed for duty at Singhu Border was found involved in malpractice by demanding and accepting Rs. 700/- from the occupant of vehicle bearing registration number HR-47-1163.

On 04.03.06, the team comprising of Inspr. Satyabir Singh, Inspr. Makhan Singh, TI/PRG, Inspr. Sanjeev Tyagi, TI/PRG and SI Anil Kumar, ZO/PRG started moving in a private car, arranged by the PRG Team, in North-West District area and checked the traffic staff at various points discreetly. At about 1200 Noon, when the PRG team reached near Singhu Border in the area of Narela Traffic Circle, it was observed that one traffic police Head Constable had stopped a Truck/Trailer bearing registration Number HR-47-1163 and was also seen having some negotiations with occupants of the front cabin. Smelling some suspicion on the part of traffic Head Constable, PRG Team positioned itself at a distance of about 500 Mtrs. Ahead of them, towards Delhi and waited for the vehicle to be released by the traffic head Constable. After a short while, the traffic Head Constable released the vehicle, the PRG Team followed the vehicle and intercepted it after travelling some distance and made enquiry from the occupants in the front cabin.

Sh. Mohd. Anwar-Ul-Haq s/o Mohd. Rasheed r/o Vill Mohammed Pur, P.S. Tajpur, Distt. Samastipur Bihar, presently residing at House No. 302/5 ICD Tuglakabad, New Delhi, on enquiries revealed that he is mechanic, employed by the owner of the truck/trailer bearing registration number HR-38-9889 got some mechanical fault at Karnal (Haryana). He loaded the faulty vehicle into the truck/trailer bearing registration number HR-47-1163 and proceeded for Delhi. At the Singhu Border they paid toll tax and started for Delhi but their vehicle was stopped just after the toll plaza at the Singhu Border by the uniformed traffic Head Constable present there. Said Head Constable asked for the documents of the vehicle. They produced the documents of said vehicle before said traffic Head Constable. After verifying the same, Head Constable told them that the entry of the trailer in Delhi is banned. He requested the traffic Head Constable to allow them to go but he did not. After this, said head Constable demanded Rs. 800/- for this purpose but after negotiation he paid Rs. 700/- to him who after taking money allowed them to go to Delhi.

Sh. Mohd. Anwar-UL-Haq was brought back to the place where he was charged Rs. 700/- without prosecution. Sh. Anwar-Ul-Haq rightly identified HC Fateh

Singh, No. 421/T and told that he is the same person who had demanded Rs. 800/- and accepted Rs. 700/- from him after negotiation. Insp. Satbir Singh asked HC Fateh Singh, No. 421/T to produce Rs. 700/- taken by him from Sh. Mohd. Anwar-Ul-Haq but he refused for the same. Statement of Sh. Anwar-Ul-Haq was recorded and original toll-tax receipt of the vehicle in question was also obtained from him.

The above act on the part of HC Fateh Singh, No. 421/T amounts to grave misconduct, lack of integrity, indulgence in corruption and dereliction in discharge of his official duty and unbecoming of a police officer which renders him liable for departmental action under the provision of Delhi Police (Punishment & Appeal) Rules 1980.

5. And we would highlight that one ingredient of the summary of allegations is that the petitioner had permitted entry of the trailer in Delhi which was banned.

6. Suffice would be it to state that as per the summary of allegations it was made known to the respondent that evidence would be led to prove that while on duty at Singhu Border on March 04, 2006 he demanded and accepted Rs. 700/- as bribe before motor vehicle bearing No. HR-47-1163 entered Delhi in spite of the entry being prohibited.

7. We find that in the charge framed it has specifically been listed against respondent as under:-

After verifying the same, you Head Constable told them that the entry of the trailer in Delhi is banned. He requested you traffic Head Constable to allow them to go but you did not. After this, you head Constable demanded Rs. 800/- for this purpose but after negotiation he paid Rs. 700/- to you and after taking money you allowed them to go to Delhi.

8. Suffice would it be to highlight that in the summary of allegations as also the charge it was a limb of the charge that when the trailer truck was permitted entry in Delhi it was at a point of time when entry of trailers in Delhi was banned. Thus, ex-facie the view taken by the Tribunal as per para 6 of the impugned decision is incorrect.

9. At this stage, learned counsel for the respondent would urge that other points were also urged in the Original Application which have not been considered by the Tribunal.

10. Accordingly, while allowing the writ petition we set aside the order dated August 17, 2009 and restore O.A. No. 79/2008 for fresh adjudication on the other points raised by the respondent.

11. Parties shall appear before the Registrar of the Tribunal on February 26, 2013 who shall revive the file of the Original Application and list the same before an appropriate Bench for adjudication.

12. No costs. DASTI.

CM No. 20155/2010

Dismissed as infructuous.