
(2010) 02 DEL CK 0391

In the Delhi High Court

Case No : Writ Petition (C.) No. 8312 of 2009

Satyavir Singh

APPELLANT

Vs

Govt. of NCTD and Others

RESPONDENT

Date of Decision : 02-02-2010

Acts Referred:

Citation : (2010) 02 DEL CK 0391

Hon'ble Judges : Mool Chand Garg, J;Anil Kumar, J

Bench : Division Bench

Advocate : Arun Bhardwaj, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner has challenged the order dated 17th February, 2009 passed in OA No. 1922/2008 titled Inspector Satyavir Singh v. Govt. of NCT of Delhi dismissing his petition against the censure order dated 28th March, 2008 passed against him and appellate order confirming the censure by order dated 21st July, 2008.

2. The brief facts to comprehend the disputes are that a show cause notice for censure was issued to the petitioner dated 13th September, 2007, stipulating that the release order signed by Gandhi Nagar Circle staff were fictitious and were issued by the police personnel working under him and he failed to supervise the activities of the staff. The notice indicated that not only there was poor supervision but blatant negligence on the part of petitioner then TI/Gandhi Nagar Circle. The allegation of failure to supervise the activities of the staff and blatant negligence on the part of the petitioner were made on account of fictitious release orders which were signed by Gandhi Nagar Circle Staff. The fictitious release order came to the notice on 5th March, 2007 when ACP/Traffic, East District stopped a blue line bus No. DL-1PB-0628 and on demanding the documents of the vehicle, four acknowledgement slips allegedly issued from ACP-T/East Office in lieu of original documents of vehicles were produced by the

driver. On inquiry, it also transpired that the DD Nos. mentioned in the release order were fictitious and given by Gandhi Nagar Circle Staff.

3. Constable Mahipal Singh, Head Constable Pritam Singh, Head Constable Ram Niwas, Head Constable Jai Prakash, Const. Raj Kumar, Const. Pawan Kumar and Const. Girish Tyagi who were posted in Gandhi Nagar Circle and ACP-T/East during the period 1st February, 2006 to 31st December, 2006 were found responsible for the lapses and the departmental action has been initiated against them.

4. In the reply to the show cause notice for censure, the petitioner had admitted that it was his first posting in the Traffic and he had never been posted as TI in any circle. It was alleged that he had instructed his reader that every paper coming to CNG Circle as well as from the Court had to be put up before him and no paper had to be sent to the office of ACP/Senior officer or in Court without forwarding it to him. Though he contended that he had made DD entries in respect of instructions given by him to the reader however, he did not produce the same on the ground that they had been sent to FSL for report and he would submit the same as soon as the daily diaries would come back. The petitioner also relied on the alleged practice of copies of the orders of permit suspension not practically being sent to TI concerned.

5. After hearing the pleas and contentions of the petitioner, the inquiry officer, Dy. Commissioner of Police passed an order holding that nothing new had been produced by the petitioner except whatsoever was stated in the reply and the pleas were found to be unacceptable and thus the pleas do not absolve the petitioner of his responsibility as traffic inspector of a circle being supervisory officer. It was held that he should have had a close watch over the activities of his subordinates as the illegal activities committed by them was not a solitary but continued for a considerable period and consequently, the conduct of the petitioner cannot be pardoned and therefore it was censured.

6. The appeal filed by the petitioner was also dismissed by the Joint Commissioner of Police (Traffic) holding that the pleas put forth by the petitioner were not satisfactory or convincing. It was held that being the supervisory officer of the circle he had to check the activities of his subordinates involved in such type of activities and his failure on this ground reflected lack of supervision over the staff and consequently dismissed the appeal.

7. Aggrieved by the order of disciplinary authority and the appellate authority, the petitioner filed an original application being OA No. 1922/2008. The Tribunal also considered in detail the circular and other material on record and held that the petitioner could not pass on responsibility to the ACP and his office. It was held that if his specific instructions to his subordinates were disregarded with impunity it would only emphasize his failure as TI (GNC) without mitigating the lapse on his part and consequently the petition was dismissed.

8. Learned Counsel for the petitioner Mr. Arun Bhardwaj has emphatically

contended that the collusion was between some of the police officers working under him and the constable and police official working in the office of ACP and he could not have knowledge about the same. This plea in the present facts and circumstances and in view of the detailed consideration by the Disciplinary Authority, the Appellate Authority and the Tribunal cannot be accepted. Though, the petitioner has contended that he had made a specific orders that all the orders be sent through his office and made entries in daily diary however, the copies of those daily diaries have not been produced on the ground that they are with the FSL. Even if, it is accepted that he had made the entries in the daily diary nothing has been shown by him as to what steps were taken by him to get his order implemented nor it has been shown as to what steps were taken by him to ascertain that his orders are being followed and implemented. Merely by passing an order and incorporating it in the daily diary, he cannot absolve himself.

9. Merely by passing the order, the petitioner could not expect that the order would be complied with unless he had taken some conscious decision for getting it implemented. The alleged instructions to the Subordinate functionaries were disregarded not once or twice but continuously with impunity which unequivocally reflects failure on his part nor his such a plea in the facts and circumstances mitigate the lapse on his part. In any case, this Court in the exercise of its jurisdiction under Article 226 of the Constitution of India is not to draw a different inference and substitute its inference with the inference of the disciplinary authority and the appellate authority. It is not a case of no evidence or such irregularities which would entail interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

10. The writ petition in the facts and circumstances, is without any merit and it is therefore dismissed.