

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WP(C) No.4624/2008**

% Reserved on: 1st July, 2008
Date of Decision: 12th August, 2008

Commissioner of Police
Through DCP, Vth Bn., DAP,
Kingsway Camp,
New Delhi

...Petitioner

Through: Mr. V.K. Tandon, Advocate

Versus

Mohinder Singh
Son of Raje Ram
Resident of 870/1, Subhash Marg,
Raj Nagar II,
Palam Colony,
Delhi - 110045

...Respondent

Through: None.

CORAM :-

THE HON'BLE MR.JUSTICE MADAN B. LOKUR
THE HON'BLE MR. JUSTICE J.R. MIDHA

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

J.R. MIDHA, J.

This petition arises out of order dated 25th March, 2008 passed by the learned Central Administrative Tribunal whereby the learned Tribunal has quashed the order dated 1st April, 2005 of the Disciplinary Authority inflicting punishment of withholding one year increment and treating the suspension period as not spent on duty.

2. The Respondent was working as Assistant Sub-Inspector (ASI) in Delhi Police and was posted at round about, GK Post Office on 10th November, 2003. The Hon'ble Prime Minister was returning from Hyderabad House to his residence at Race Course Road and had to cross the round about of GK Post Office where barricades were put. The Respondent was supposed to remove the barricades for unobstructed passage to the cavalcade of the Hon'ble Prime Minister. However, there was some delay in removal of the barricades and by that time, the SPG pilot car reached the barricade and the Inspector, Rajesh Prasad and Constable, Yogender of SPG came out of the vehicle when the barricades were removed by the Respondent.

3. A departmental inquiry was initiated against the Respondent on the charge that the cavalcade of the Hon'ble Prime Minister came to a halt as a result of which great inconvenience and immense embarrassment was caused to the police force by his negligence and carelessness due to the above lapse on his part in performing his official duties. The Inquiry Officer conducted the inquiry and came to the conclusion that the cavalcade of the Prime Minister did not stop at the round about GK Post Office but the pilot car had to stop and the occupants of the car had to come out when the barricades were removed. The Inquiry Officer further observed that the Respondent did not take sufficient precautions while removing the barricades. The Disciplinary Authority inflicted the punishment of withholding of increment of one year and treating the period of suspension from 10th November, 2003 to 21st April, 2004 as not spent on duty. The Respondent's appeal against the aforesaid punishment was rejected by the Appellate Authority which was challenged by the Respondent before the learned Tribunal.

4. The cavalcade of the Hon'ble Prime Minister did not halt as was charged against the Respondent in the charge sheet.

PW-4 who was in the lead car of the cavalcade admitted that the cavalcade of the Prime Minister did not halt but only slowed down. PW-5 who was also in the lead car, confirmed the same. DW-1 who was on duty along with the Respondent stated that staff tried to push the barricade as soon as the cavalcade of the Prime Minister came near GK post office on Akbar Road and in the process, one of the barricades fell down which was removed immediately and the cavalcade of the Prime Minister passed without halting. DW-2 who was on duty with the Respondent, also deposed to the same effect. The Inquiry Officer also came to the conclusion that the cavalcade of the Prime Minister did not stop.

5. The charge framed against the Respondent that the cavalcade of the Prime Minister had to stop which caused great deal of inconvenience to the Prime Minister was not proved in the inquiry. One of the barricades fell down which was immediately picked up and removed by the Respondent due to which there was slight delay. It was just an accident. There was slight error of judgment in removal of the barricades but such an act cannot be held to be negligence or carelessness. In

any case, the cavalcade of the Prime Minister had an unobstructed passage.

6. We agree with the finding of the learned Tribunal that the Petitioner has not been able to prove the charge of negligence or carelessness of the Respondent. The learned Tribunal has rightly quashed the punishment inflicted on the Respondent. We do not find any merit in this petition and, therefore, dismiss the same.

(J.R. MIDHA)
JUDGE

(MADAN B. LOKUR)
JUDGE

12th August, 2008
s.pal