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

% Date of Decision: 27<sup>th</sup> September, 2010

+ **W.P.(C) 4342/2010**

COMMISSIONER OF POLICE & ORS. .... Petitioners  
Through: Mr.V.K.Tandon, Advocate.

Versus

HC KANWAR SINGH (SINCE DECEASED) THRU LRS  
..... Respondents  
Through: Ms.Manpreet Kaur, Advocate for  
Mr.Arun Bhardwaj, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**  
**HON'BLE MR. JUSTICE MOOL CHAND GARG**

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

**PRADEEP NANDRAJOG, J. (Oral)**

1. It appears that the Tribunal, to use the colloquial expression, was hell bent to allow OA No.1092/2008 and has done so under the impugned order dated 13.4.2010. The reasoning of the Tribunal is to be found in para 6 of the impugned order, which reads as under:-

“6. We have carefully considered the rival contentions of the parties and perused the materials on record. From the evidence on record, it is an admitted conclusion of the Inquiry Officer that the applicant had neither demanded nor accepted any amount nor in any manner had conspiracy or connivance with the helper whose identity was not established and whose relation with the applicant was also not established. The Inquiry Officer's report is without discussing the evidence and recording reasons in support of the conclusions as ruled by the Apex Court that Inquiry Officer has quasi judicial function

and more particularly in view of Rule 16(9) of the Delhi Police Rules, Inquiry Officer is mandated to record reasons. Having failed to do so, his finding as to guilt of the applicant is vitiated in the light of the decision of the Apex Court in Roop Singh Negi vs. Punjab National Bank & Ors. (2009) (1) SCC (L&S) 398)."

2. What was the charge against the petitioner? The charge and the summary of allegations read as under:-

*"It is alleged against HC Kanwar Singh, No.496/T that on 3.2.2007, while posted at Model Town Traffic Circle and detailed on crane duty was found indulging in malpractices by releasing the vehicle without prosecuting with the connivance of crane helper Raj Kumar s/o Sh.Karu Mandal, during PRG surveillance.*

*On 3.2.2007, the PRG team started moving in a private car arranged by Inspr. K.P.Singh, Inspr./PRG and checked the traffic staff while performing the crane duties at various points discreetly. At about 10.10 AM the PRG team reached near the pit of Model Town Traffic Circle, spotted a privately hired crane bearing registration No.DL-1LG-4391 and started watching the activities of crane staff and when the crane left the pit, the PRG team started to follow it. At about 10.45 AM the above crane stopped ahead of a parked LGV make TATA-407 bearing registration No.DL-1LB-2238 on the out gate of Azadpur mandi on the road leading to Kela Godown from G.T.K.Road Jahangirpur. It was noticed that the driver of LGV was standing near the LGV and was getting the sacks of vegetables loaded. As soon as the crane stopped ahead of the LGV, one of the helper of the crane got down from the rear side of the crane and approached the driver of the LGV and started to negotiate something with him. Driver of the LGV took out something from his pocket and handed it over to the helper of the crane. The helper boarded the crane and it started to move towards the railway crossing. Smelling some suspicion, Inspr. K.P.Singh along with staff got off the PRG team's vehicle and approached the driver of the LGV and made enquiries from him.*

*The name of the driver of LGV came to be known as Sri Pal Yadav S/o Ramnaresh Yadav C/o C-69, Agar Nagar, Prem Nagar-III, Delhi-41 who on enquiry told that he is the owner of the above LGV and today he was loading vegetables on his tempo and at about 10.45 AM a traffic police crane stopped just ahead of his tempo, in which a traffic policeman was sitting and one of the helpers of the*

crane came from the rear side of the cane, approached him and said that he was loading his tempo parked on the main road. He further asked him to either pay the 'Entry Money' or the LGV would be towed away and it would be challaned. He pleaded to the helper and after some negotiations he paid a note of ₹100/- as 'Entry Money' to the helper, who boarded the crane and went away without issuing any challan or receipt.

In the meantime Inspr.K.P.Singh noticed that the above crane took a U-turn before railway crossing, Kela Godown Road and was going towards GTK Road. Inspr.K.P.Singh along with staff asked Sh.Sripal Yadav, owner of the LGV to stay there only and followed the crane. The crane approached red light at T-point GTK Road, turned right on the service road towards Azad Pur Mandi and stopped near truck bearing registration No.HP-38-6410 parked on the service road just next to the T-point. The policeman sitting in front cabin of the crane said something to a person standing near the truck. After that the same helper got down from the rear side of the crane and approached the person standing near the truck. Both of them went to other side of the truck. Smelling some suspicious Inspr.K.P.Singh along with the PRG team rushed to the other side of the truck and observed that the person was pleading something to the helper. PRG team apprehended the helper and made enquiries from that person.

The name of the person standing near the truck came to be known as Jevan Sharma S/o Sh.Kundan Lal r/o 309, Sarai Peepal Thala, Delhi, who on enquiry told that he is the guide (helper) at Kashmir-Karnataka Roadways Transport Company at above address. Today he had come to take the above truck, which is attached with his company, to the Mandi for loading and when at about 10:55 AM, the traffic police crane stopped near the truck and the traffic policemen sitting inside the crane asked him why the vehicle was parked there and further asked him to remove the truck from there. In the meantime the helper of the crane got down, approached him and asked for 'Entry Money'. He took the helper to the other side of the truck and tried to give him ₹50/-, but the helper was insisting for ₹100 only.

On enquiry, helper's name came to be known as Raj Kumar S/o Sh.Karu Mandal R/o Uttam Nagar Delhi and the policeman sitting in the front cabin was identified as HC Kanwar Singh No.496/T posted at Model Town Traffic Circle.

*PRG team brought back the above crane along with the staff and Sh.Jeevan Sharma above to the spot, where the above LGV was still being loaded. Sripal Yadav, owner of the LGV immediately identified HC Kanwar Singh No.496/T, as the one who was sitting in front cabin of the crane and Raj Kumar as the helper of the crane who had demanded and accepted ₹100 as 'Entry Money' from him for not towing the LGV. Raj Kumar was asked to produce the ₹100 note, which he had taken from Sripal Yadav. Raj Kumar produced a note of ₹100 bearing No.5 AE 611206, which was identified by the owner of LGV as the one which he had given to Raj Kumar. Sripal signed the above note and the same was taken in possession vide a seizure memo. The seizure memo, was also signed by Sripal and helper Raj Kumar put his left thumb impression on it. Statements of Sripal Yadav, owner of the LGV and Jeevan Sharma, helper of Kashmir-Karnataka Roadways Transport were recorded.*

*The above act on the part of HC Kanwar Singh, No.496/T amounts to gross misconduct, lack of integrity, indulgence in corruption and dereliction in the discharge of his official duties which renders him liable for departmental action under the provisions of the Delhi Police (Punishment & Appeal) Rules 1980."*

3. Had the Tribunal bothered to read the indictment it would have dawned upon the Tribunal that the indictment was that HC Kanwar Singh i.e. the respondent while posted at Model Town Traffic Circle and detailed on crane duty was found indulging in malpractices by releasing the vehicle (unauthorizedly parked?) without prosecuting the driver thereof. Thus, it hardly mattered whether it was proved or not proved that he demanded or accepted money. We are surprised that the Tribunal has held that the Inquiry Report does not establish a conspiracy between HC Kanwar Singh and the helper of the crane, who we note is Raj Kumar. We are equally surprised that the Tribunal has held that the evidence does not establish connivance with the helper Shri Raj Kumar.
4. The statement of imputation refers to the PRG Team, headed by Inspector K.P.Singh, checking the traffic staff on crane duty, and having seen a privately hired crane bearing registration No.DL-1LG-

4391 stopping ahead a parked LGV make 'TATA 407' bearing registration No.DL-1LB-2238 which was parked outside gate of Azadpur Mandi and the driver of the crane stopping the crane. A helper got down from the crane and approached the driver of the LGV and after some time the driver handed over something to the helper after taking out that something from his pocket. Inspector K.P.Singh made enquiry from the driver of the LGV, whose name was Shripal Yadav, who told him that he was asked to pay entry money under threat that the LGV would be towed away and thus he paid ₹100 as bribe to the helper. Further, Inspector K.P.Singh noted that thereafter the crane stopped near a truck bearing registration No.HP-38-6410 parked at a T-point of the service road hitting Azadpur Mandi and the same helper got down and approached a person standing near the truck. Both went to the other side of the truck and Inspector K.P.Singh rushed to the truck and learnt that the person standing near the truck was Jeevan Sharma, a helper guide employed by Kashmir-Karnataka Roadways Transport Company, who told him that the helper who got down from the crane demanded entry money. He offered ₹50 but the helper insisted that ₹100 be paid and at that point of time Inspector K.P.Singh reached. The name of the helper in the crane was Raj Kumar and the policeman sitting in the cabin of the crane was HC Kanwar Singh. ₹100 recovered from the helper Raj Kumar was thereafter identified by Shripal Yadav, the driver of LGV No.DL-1LG-4391 as the currency note given by him to Raj Kumar.

5. During inquiry, Const.Pramod Kumar PW-1 proved DD No.6, Ex.PW-1/A dated 3.2.2007 showing departure of HC Kanwar Singh with a private crane No.DL-1LG-4391 at 8:15 AM. He proved the duty roster Ex.PW-1/B which showed the duty of HC Kanwar Singh being attached to the private crane. Inspector K.P.Singh PW-2, deposed facts in complete harmony with the statement of imputation. SI Pankaj Malik PW-3, corroborated Inspector K.P.Singh. Shripal Yadav PW-4, deposed that when he had parked the TATA 407 bearing No.DL-1LB-2238 owned by one Mr.Vijay, a boy from a

private crane told him that he was a helper on the crane and demanded ₹100 under threat of the vehicle being towed away. He gave ₹100 to the boy who left after taking money. After 5 minutes 2 persons brought the boy who had taken ₹100 from him and obtained his signatures i.e. the signatures of Shripal Yadav on a ₹100 note. Jeevan Sharma PW-5 did not support the prosecution vis-à-vis the allegation pertaining to Raj Kumar wanting to extract money from him.

6. The evidence clearly brings out the fact that HC Kanwar Singh was in charge of the privately hired crane and was on duty to impound vehicles which were unauthorizedly parked. Evidence established that two vehicles which were unauthorizedly parked were not impounded by him. He was permitting the private helper attached to the crane i.e. Raj Kumar to negotiate with the drivers of the unauthorizedly parked vehicles. It is true that nobody heard the conversation. But the circumstances brought out by the evidence leads one to the irresistible conclusion that HC Kanwar Singh was misusing his authority for private gain. One fact is positively established. The same is that HC Kanwar Singh was not impounding the vehicles which were unauthorizedly parked and was indulging in the malpractice of releasing the vehicles without prosecuting them. There is positive evidence that Raj Kumar, the helper in the crane, was being permitted to disembark from the crane and speak to the drivers of the unauthorizedly parked vehicles. There is positive evidence that Shripal Yadav gave ₹100 to Raj Kumar the helper. We note that Shripal Yadav PW-4 has deposed that he gave ₹100 to the helper of the crane as he was scared that otherwise his TATA 407 would be impounded. It is true that he has not named Raj Kumar as the helper, but PW-2 and PW-3 have clearly stated that the helper whom they could see was Raj Kumar. The inferential evidence of acting pursuant to a conspiracy to extract money from the truck drivers and not discharge the duties which he was supposed to do is the proof of HC Kanwar Singh being on duty on the crane and his sitting in the cabin of the crane

and Raj Kumar doing the needful. From the inferential evidence, on the standard of proof to be achieved at a domestic inquiry, any reasonable person would concur with the finding recorded by the inquiry officer that HC Kanwar Singh was found indulging in the malpractices alleged.

7. We are sorry to note the approach of the Tribunal in not even bothering to read the evidence. We wonder wherefrom the Tribunal has noted that the inquiry officer has not discussed the evidence. The discussion of the evidence spans nearly 1½ page.

8. The writ petition is accordingly allowed. Order dated 13.4.2010 passed by the Tribunal is set aside and OA No.1092/2008 filed by the respondent is dismissed.

9. The penalty imposed upon HC Kanwar Singh of forfeiture of 3 years' approved service permanently is restored.

10. But, we refrain from imposing any costs in favour of the petitioner and against the respondents for the reason HC Kanwar Singh died during the pendency of the proceedings before the Tribunal and his legal heirs were brought on record and we do not wish to burden them with costs.

**PRADEEP NANDRAJOG, J.**

**MOOL CHAND GARG, J.**

**SEPTEMBER 27, 2010**  
**dk**