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

+ **W.P.(C) 240/2016**

Date of decision: 12th January, 2016

JOINT COMMISSIONER OF POLICE AND ORS ... Petitioner

Through Ms. Iram Majid, Advocate.

versus

INSPECTOR RAJ SINGH Respondent

Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J.

This writ petition by the Government of NCT of Delhi impugns order dated 27th May, 2015, passed by the Central Administrative Tribunal, Principal Bench (Tribunal, for short) in OA No.3244 of 2013 quashing the penalty of 'censure' imposed on the respondent Inspector Raj Singh.

2. We are aware and conscious that the Tribunal is not an appellate

forum that can substitute its opinion for that of the disciplinary authorities, but this is a case wherein there was non-application of mind to the relevant facts. The respondent's version in his response to the show cause notice was not adverted to and given due acknowledgment while imposing punishment of 'censure' and in the appellate order confirming the said order.

3. The facts are not in dispute. The respondent-Inspector Raj Singh was the SHO of police station Bawana. On 8th August, 2011, FIR No.288/2011 was registered in the said police station on the statement made by one Rajpal, that his wallet had been snatched by two boys on a motorcycle and when he had tried to chase the culprits, he was beaten up with a base ball bat. The FIR was registered under Sections 356/379/323/34 of the Indian Penal Code, 1860 (IPC, for short).

4. The charge against the respondent Inspector Raj Singh was that to minimize the gravity of offence, offence of robbery under Section 390 IPC was not included in the sections recorded in the FIR and this amounts to gross misconduct, negligence, carelessness, irresponsible attitude and dereliction in discharge of his official duties.

5. The defence of the respondent before the authorities was that he was not the Investigating Officer. As an SHO, he had issued

instructions to the Investigating Officer to take steps and proceed in accordance with law. Further, the relevant facts including the statement of the complainant were brought to the notice of the seniors and relevant Sections were invoked after seeking approval of the Assistant Commissioner of Police, Bawana, Delhi. Another ground raised by the respondent was that no action against ASI Raj Kumar, the Investigating Officer was initiated and taken.

6. The FIR in question was registered on 8th August, 2011 and the show cause notice was issued on 4th November, 2011 and the order awarding penalty of 'censure' was passed on 23rd November, 2012. It is palpable and apparent that during the course of investigation, the Investigating Officer could have added other sections of IPC, if another or more serious offence was made out. The Tribunal after examining the relevant facts has reached the conclusion that in this case punishment of 'censure' was not justified and necessary.

7. The writ petition has no merit and is accordingly dismissed.

SANJIV KHANNA, J.

NAJMI WAZIRI, J.

JANUARY 12, 2016
NA/VKR