

\$~1

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

+ W.P.(C) 983/2017

RAJNIKANT CHAURASIYA Petitioner
Through Mr. Anand Shanker, Advocate

versus

COMMISSIONER OF DELHI POLICE Respondent
Through Mr. Pankaj Sinha with Mr. K.K.
Mishra, Advocates
SI Rampal Sharma, PS Special Branch

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

%

17.03.2017

Rajnikant Chaurasiya, the petitioner herein, Sub-Inspector in the Delhi Police, by way of present writ petition, impugns the order dated 7th December, 2016 passed by the Principal Bench of the Central Administrative Tribunal ('Tribunal' for short) dismissing OA No. 333/2015 filed by him and upholding the penalty of censure.

2. One Mr. Sanjay Gupta, had filed a complaint in Police Station Nabi Karim against various persons, alleging that they had illegally taken possession of his shop No. 9321-24, Gali No. 7, Multani Dhanda, Pahar Ganj, New Delhi on basis of a forged General Power of Attorney dated 10.12.1993, hereinafter referred as forged GPA.

3. As FIR was not registered, Sanjay Gupta filed an application under Section 156(3) of the Code of Criminal Procedure, 1973 wherein the

Metropolitan Magistrate issued directions for registration of an FIR. Accordingly, FIR No. 65/2008 was registered at Police Station- Nabi Karim, Delhi.

4. The petitioner was appointed as an Investigating Officer on 17.10.2008 in FIR No.65/2008 and the investigation remained with him till 17.12.2009. The chargesheet in the subject FIR 65/2008 was prepared and filed on 30.3.2011.

5. Mr. Sanjay Gupta on 6.9.2011 had complained and lamented about delay, inaction and lackadaisical investigation, to help the accused. He pointed out that the forged GPA relied by the accused was attested by a Notary Public, who, in fact, did not exist as per the investigation. An attempt was also made to replace the forged GPA with another registered power of attorney executed on a different date.

6. On the basis of the preliminary enquiry, charge sheet was issued on four charges relating to lapses by the petitioner. The disciplinary authority came to the conclusion that the petitioner was not required to send the forged GPA to the office of Sub-Registrar, when the said GPA was not registered. The GPA did not bear any volume number, book number or page number etc. This was a futile exercise that had been undertaken. The petitioner, it was observed, had not replied/responded to the query raised by the Sub-Registrar Office vide letter dated 19.3.2009. The finding and conclusion recorded by the Disciplinary Authority in his order dated 13.8.2013 reads:-

“ I have carefully gone through the statements of Prosecution Witnesses, Charge, Defence witnesses, Defence Statement and written representation submitted by the defaulter SI as well as other material evidence available in D.E. file. During

the departmental enquiry proceedings four allegations were levelled against the defaulter and out of them only one allegation (S. No. 2) has been found substantiated. During the departmental enquiry it has been clearly proved that the defaulter had written letter dated 09.03.2009 (Exhibit PW-5/A) to Sub-Registrar's (III) for the verification of forged GPA whereas the GPA did not bear any Volume Number, Book Number, or Page Number. Further, when the Registrar's office vide its letter dated 19.03.2009 (Exhibit PW-5/B) replied to the matter and also raised some query in respect to forged GPA, the defaulter did not respond to the query raised by Sub-Registrar's Office. I have also heard him in person on 08.08.2013. During personal hearing the defaulter stated that this was his first case of forgery and cheating. He accepted that there might have been lapses due to inexperience but they were not deliberate or intentional.

In view of the circumstances mentioned, I take a lenient view and I feel that a penalty of Censure would suffice and serve the ends of justice as only one of the four charges is found proved. Therefore, I, John Neihlaia, Deputy Commissioner of Police, Special Branch, Delhi, hereby award the punishment of Censure to the defaulter SI Rajni kant, No. D/1981 and his conduct is hereby censured."

7. The disciplinary authority, after hearing the petitioner, had passed the aforesaid order imposing penalty of censure.
8. The petitioner had filed a departmental appeal pleading that the punishment of censure was discriminatory and unjustified. The appeal was rejected.
9. In our opinion, the Tribunal rightly refused to interfere with the findings recorded by the Disciplinary Authority and affirmed by the Appellate Authority, and the punishment of "censure" awarded, observing that there was no arbitrariness or illegality in conducting the departmental

proceedings. Findings of fact recorded in these proceedings were not perverse. The argument of discrimination was rejected observing that the other two Investigating Officers involved may have been let off with minor penalty, but once a charge against the petitioner was proved after following the due process, the punishment of “censure” as awarded cannot be struck down.

10. The Writ Court is not an Appellate Court, which can re-appreciate findings of fact. In any case, the findings are not such which are perverse and unreasonable in the given factual matrix. The contention that the petitioner has been discriminated does not have any merit. We are concerned with the findings in the disciplinary proceedings against the petitioner and whether the punishment of “censure” as imposed is shockingly disproportionate to merit interference. The fact that the other two Investigating Officers were let off with recordable warning or warning would not show invidious discrimination. Noticeably, the petitioner was the Investigating Officer in FIR No. 65/2008 for over a year; from 17th October, 2008 till 17th December, 2009. It is the petitioner’s conduct which has to be examined in the light of the findings recorded and whether in the said matrix, punishment of “censure” should be set aside and quashed by applying the doctrine of proportionality.

11. On consideration, we do not find any merit in the present writ petition, which is dismissed.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

MARCH 17, 2017/sd