



2026:DHC:2180-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 09.03.2026***+ **W.P.(C) 9589/2024 & CM APPL. 39366/2024****COMMISSIONER OF POLICE AND ORSPetitioners****Through: Mr. Ripudaman Bhardwaj, CGSC
& SI Abdul Barkat Pairvi Officer****versus****ANIL KUMAR****.....Respondent****Through: Mr. Vikas Arora & Ms. Radhika
Arora, Adv.****CORAM:****HON'BLE MR. JUSTICE ANIL KSHETARPAL****HON'BLE MR. JUSTICE AMIT MAHAJAN****J U D G M E N T (O R A L)****AMIT MAHAJAN, J.**

1. Through the present writ petition, the Petitioners have assailed the correctness of order dated 15.12.2023 (hereafter '**impugned order**'), passed in O.A. No. 683/2022. The learned Central Administrative Tribunal allowed the original application filed by the Respondent and the order passed by disciplinary authority inflicting penalty on Respondent was set aside.

2. Briefly stated, in August, 2018, a complaint along with a CD was allegedly received from one Ajay Arora against traffic staff at the office of TI/Kapashera Traffic Circle. Allegedly, the CD revealed that the Respondent was demanding and accepting money from one public person, namely, Joginder. Four other staff members deployed at the Circle were also allegedly visible in the video, and were perceived to be

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part of the corrupt activities of the Respondent in taking money in lieu of plying a number of vehicles on the route. Pursuant to the same, although no official entry of the said complaint was made, HC Ashok Kumar was tasked with looking into the same. The said officer made a copy of the CD and attached the same with the complaint. In the vigilance proceedings, it was found that the allegations could not be substantiated in the absence of the person who conducted the sting and prepared the CD. Despite the same, on 29.12.2020, a joint departmental enquiry was initiated against the Respondent, SI Karan Singh and three other officers for gross misconduct unbecoming of police officers as well as dereliction of duty.

3. After completion of all codal formalities, the Enquiry Officer submitted his findings that the charge against all officers, including, the Respondent, was not proved. It was noted that the CD was not accompanied with a certificate under Section 65B of the Indian Evidence Act, 1872, which made the same unreliable. After perusing the entire file, the Disciplinary Authority served a disagreement note dated 13.07.2021 wherein it was noted that the Enquiry Officer had failed to appreciate the material on record and erroneously discarded the CD even though the standard of proof in departmental enquiry is that of preponderance of probability. Despite the Respondent's detailed reply against the same, by way of order dated 27.07.2021, the Disciplinary Authority ultimately inflicted a major penalty of forfeiture of two years of approved service permanently entailing proportionate reduction in pay. Further, SI Karan Singh was awarded the punishment of Censure for his lack of supervision. The Respondent's appeal against the punishment was



rejected by the Appellate Authority on 25.01.2022.

4. Aggrieved by the same, the Respondent had filed O.A. No. 683/2022, which was allowed by way of the impugned order. The Respondent was found to be entitled to all consequential benefits and the competent authority was directed to pass necessary orders in this regard. It was noted that the very foundation of the case had come into question due to the genuineness of the CD being questionable.

5. Before this Court, it is argued on behalf of the Petitioners that the learned Tribunal has erred in not appreciating that the Disciplinary Authority had weighed the entire material on record before inflicting the penalty on the Respondent. It is submitted that the Respondent was seen demanding and taking money on video to allow vehicles to ply on the concerned route, and he has been erroneously exonerated on account of the CD not being accompanied with a certificate under Section 65B of the Indian Evidence Act, 1872. It is emphasised that the standard of proof in departmental proceedings is that of preponderance of probability, and even DW 3 (Inspector Jai Kumar Bhardwaj) had accepted during vigilance enquiry that staff of Kapshera Circle had become uncontrolled due to illegal activities. It is submitted that the circumstances establish a clear case against the Respondent.

6. On the other hand, the learned counsel for the Respondent has argued that there is no infirmity in the impugned order and the Respondent cannot be penalised on the basis of a dubious CD. He submitted that in his capacity as a constable, the Respondent could not even have issued challans to the plying vehicles. He further pointed out that apart from SI Karan, the rest of the officers apparently found visible



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in the video have been exonerated.

7. Before dealing with the merits of the case, it is imperative to first take note of the conduct of the Petitioners. On 23.07.2025, the Predecessor Bench had noted that the Petitioners had been taking repeated adjournments. Although no further adjournment has been sought since then, despite granting repeated opportunities to the Petitioners, the record of the departmental proceedings has still not been placed on record. In such circumstances, this Court does not consider it appropriate to adjourn the matter any further.

8. The short issue before this Court is whether there is sufficient evidence on record to inflict penalty on the Respondent for purportedly demanding and accepting money at the Kapashera Traffic Circle in lieu of enabling a number of vehicles to ply on the said route.

9. Though seven prosecution witnesses were examined in the departmental enquiry, as also noted by the learned Tribunal, the case of the Petitioners is essentially hinged on the CD, which is said to contain the video which evidences the Respondent allegedly receiving money. Reference is also made to the statement of DW3, who had accepted in vigilance proceedings that the staff at Kapashera Circle is indulged in rampant illegal activities. It is argued that the said circumstances clearly make out a case against the Respondent.

10. At the outset, it is surprising to note that although the Petitioners have maintained throughout that the Respondent as well as his counterparts and immediate superiors are visible in the video, peculiarly, major penalty was only inflicted on the Respondent, and even SI Karan was only censured due to his alleged lack of proper supervision over his



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staff. Rest of the officers, including one superior of the Respondent, have been exonerated despite their presence at the spot where the Respondent was allegedly demanding and accepting bribe. It belies logic that the Respondent, who was only a Constable and admittedly not even empowered to challan, would be able to indulge in such corrupt practices in presence of other staff members, including his superiors, without their complicity in the same. Despite the same, the Petitioners have only chosen to pursue the matter against the Respondent.

11. Be that as it may, insofar as the genuineness of the CD and the accompanying transcript is concerned, this Court is of the opinion that the findings of the learned Tribunal in this regard are not perverse. As rightly appreciated by the learned Tribunal, the original CD was not produced during enquiry. No attempt was made to obtain a copy of the original CD either, and further, no DD entry was made in relation to receipt of the complaint as well as CD from Mr. Ajay Arora. Although he was technically the original complainant in the case and he had given the CD, Mr. Ajay Arora was not even listed as a witness, and rather, it is apparent from vigilance proceedings that he had denied that he had given any such CD to the Traffic Circle. There is no clarity whatsoever as to who prepared the CD. The foundation of the case is further rendered brittle as the person from whom the Respondent had allegedly taken money—Joginder, had also never joined the departmental proceedings as well as the vigilance enquiry, and he had clearly denied conducting any sting.

12. In this respect, it is also important to take note of the findings of the vigilance enquiry report in this regard. The same are as under:



*“Complainant HC Ashok Kumar was asked to produce the person who provided him the sting CD. He told his name as Joginder Singh (xxxxxxxxxxx) He was called in front of the complainant and was also asked to join the vigilance enquiry. **Joginder denied that he had never conducted any sting and also told that he has already told this fact to the police.** Moreover, the alleged stinger Joginder never joined the vigilance enquiry on repeated communication on his mobile phone and clearly told that he has no complaint against any police officer. Another person namely Ajay Arora (xxxxxxxxxxx), who allegedly given the sting CD in the circle as told by HC Ashok, was also contacted, who told that **he had never given any CD to the traffic circle Kapashera or anywhere else.** Both were asked to join the enquiry, but they denied by taking the plea that they are not connected with the recording, hence unable to join the enquiry. Complainant HC Ashok Kumar never produced them before me for the purpose of vigilance enquiry on repeated opportunities. In the absence of the person who conducted the sting and prepared the CD, the allegations of the complainant could not be substantiated.”*

(emphasis supplied and contact numbers redacted)

13. Although it is well-settled that the technical rules of evidence are not applicable in a departmental enquiry, no employee can be implicated without any deference to the genuineness of the material sought to be relied upon. Departmental proceedings being disjunct from the staunch rules of evidence encompassed in the Indian Evidence Act, 1872 does not signify that the CD is to be accepted even when there is no clarity as to who recorded the video. A certificate under Section 65B of the Indian Evidence Act, 1872 is merely a means to authenticate the integrity of digital evidence. Even if the same is not insisted upon in departmental proceedings, to rely upon digital evidence, it was necessary that the credibility of the evidence is ascertained in some manner to rule out tampering, especially when such evidence forms the basis of the entire allegations.

14. Even to meet the lower threshold of preponderance of probability



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in departmental enquiry, there must be some clear and convincing evidence to implicate the employee. Penalty based on questionable digital evidence is unsustainable. When the CD itself has been rightly found to be dubious and questionable, no benefit can be derived from any assertion of general corruption at the concerned Traffic Circle by DW3.

15. In view of the aforesaid discussion, in the opinion of this Court, the impugned order does not warrant any interference.

16. The present petition is dismissed in the aforesaid terms. Pending application also stands disposed of.

AMIT MAHAJAN, J

ANIL KSHETARPAL, J

MARCH 9, 2026

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