



2025:DHC:11776-DB



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

Reserved on: 13.11.2025
Pronounced on: 23.12.2025

+ **W.P.(C) 5802/2023 & CM APPL. 22725/2023**

GOVT OF NCT OF DELHI AND ORS. Petitioners

Through: Mr.Amit Tiwari, CGSC (NP),
Ms.Lavanya Kaushik, GP,
Ms.Ayushi Srivastava, GP,
Mr.Ayush Tanwar, Mr.Arpan
Narwal, Mr.Kushagra Malik &
Ms.Khyati Bansal, Advs.

versus

CT ANUJ KUMAR Respondent

Through: Mr. Setu Niket, Ms. Esha
Mazumdar & Ms. Muskan
Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed by the petitioners, challenging the Order dated 05.12.2022 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 2595/2021, titled ***Ct. Anuj Kumar v. Govt. of NCT of Delhi & Ors.***, whereby the learned Tribunal allowed the O.A. filed by the respondent herein, with the following directions:

"16. Keeping in view the facts and circumstances of the case, we allow this OA with the observation that the orders of the



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disciplinary authority and appellate authority are hereby set aside and cost of Rs.10,000/- each is imposed on concerned Deputy Commissioner of Police as well as on Additional Commissioner of Police for non-adherence to the proceedings which was raised before them as one after other factual error has been committed by them. The concerned Commissioner of Police is directed to make recovery of the said cost of Rs.10,000/- imposed, from their salary and the same deduction shall be deposited in the Prime Minister's Relief Fund. The same shall be informed in writing by the respondents to this Tribunal. This exercise shall be completed by the respondents within a period of thirty days from the date of receipt of a certified copy of this order. The respondents are further directed to pay back all the monetary benefits to the applicant with 6% interest within a period of two months from the date of receipt of certified copy of this order."

BRIEF FACTS:

2. The brief facts giving rise to the present petition are that the respondent was enlisted in the Delhi Police as a Constable on 01.08.2007, and was subsequently confirmed on 01.08.2009.
3. On 04.06.2014, the Senior Superintendent of Police, Muzaffarnagar, Uttar Pradesh, *vide* a letter informed the Commissioner of Police, Delhi, about the registration of an FIR, bearing No. 291/2013 under Sections 295A, 395, 436 of the Indian Penal Code, 1860 (IPC), registered at P.S. Phugana, Muzaffarnagar, Uttar Pradesh, against the respondent, who was then posted as a Constable at P.S. Seemapuri, North-East District, Delhi.
4. Based on the above, by an Order No. 7793-7810/HAP/P-I/1st Bn



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DAP dated 15.07.2014, departmental proceedings under the Delhi Police (Punishment and Appeal) Rules, 1980 (hereinafter referred to as the 'Rules') were initiated against the respondent for allegedly failing to disclose his involvement in the abovementioned FIR. The Inquiry Officer issued the Draft Charge on 14.05.2015.

5. It was the case of the respondent that he was not aware of the registration of the above FIR, and it was only on 08.06.2014, when he was on casual leave and was visiting his village, that he came to know about the same. Consequently, he applied for bail before the Court of learned Sessions Judge, Muzaffarnagar, being Bail Application No.3067/2014. On 17.08.2014, he was granted *interim* bail, and on 26.08.2014, he was granted bail.

6. The Inquiry Officer submitted his report on 05.06.2015, finding the charge against the respondent as proved.

7. The respondent received the copy of the findings of the Inquiry Officer on 25.06.2015 and submitted his written representation thereagainst, which was received by the Department on 14.07.2015. Thereafter, the respondent was heard in oral representation on 21.07.2015, where he submitted that he had been falsely implicated in the FIR and the Inquiry Officer had not ascertained all the facts.

8. Considering his representation, the Disciplinary Authority appointed another person to ascertain the information, who submitted his supplementary findings on 01.12.2015, again concluding that the charge framed against the respondent is proved.

9. It is the case of the respondent that the supplementary findings incorrectly recorded that he was also sent to judicial custody. Further,



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he claims that the supplementary inquiry was conducted *ex-parte* and violated the principles of natural justice.

10. Upon receiving the copy of the supplementary findings, the respondent submitted a reply thereto *vide* Letter dated 03.01.2016.

11. The Deputy Commissioner of Police, 1st BN. DAP Delhi, *vide* Order No. 244-60/HAP/P-I/Ist Bn. DAP dated 14.01.2016, awarded the respondent a major penalty of forfeiture of 05 years approved service permanently, entailing proportionate reduction in his pay with immediate effect.

12. The respondent preferred an appeal dated 15.02.2016 thereagainst, however, the same was rejected by the Additional Commissioner of Police, Delhi, *vide* Order No. 1792-95/P Sec/Addl CP/AP dated 29.06.2016, on the ground that the respondent was sent to judicial custody.

13. Meanwhile, the respondent was discharged in the Criminal Case pending against him, being Sessions Trial No. 190/2016, by the learned Additional District & Sessions Judge, Muzaffarnagar, *vide* Judgment dated 27.05.2019.

14. Subsequently, the respondent submitted a representation dated 08.08.2019 against the Punishment Order dated 14.01.2016 and the Appellate Order dated 29.06.2016. Simultaneously, he also wrote to the Jail Superintendent, Muzaffarnagar, on 27.09.2019, seeking information regarding whether he was imprisoned from 11.08.2014 to 26.08.2014 in District Jail Muzaffarnagar in respect of FIR No. 291/2013, to which the Jail Superintendent replied that as per records of the prison, the respondent was not found to have been lodged in the prison from



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11.08.2014 to 26.08.2014. The A.D.G.C. Criminal Muzaffarnagar also stated that no appeal has been filed in the High Court against the discharge Order dated 27.05.2019.

15. The representation of the respondent was, however, rejected by the Deputy Commissioner of Police, 1st BN. DAP: Delhi *vide* Order No. 9930-65/HAP(P-III)/Ist Bn. DAP, dated 15/17.10.2019, on the ground that the departmental inquiry had been initiated on a different perspective and punishment was awarded for concealment of the fact, that is, not intimating the Department regarding his involvement in a criminal case.

16. Aggrieved by the aforesaid orders, the respondent filed the above O.A. before the learned Tribunal, which was allowed, by observing as under:

“15. The issue raised in the present OA regarding involvement of the applicant in this incident which took place on 16.09.2013 is erroneous on the basis of the record itself. Even the applicant was acquitted also still the department was bent upon to impose penalty of forfeiture of five years approved service permanently, which is highly improper and illegal. Thus, we hereby set aside both the orders of disciplinary authority as well as appellate authority. We have never come across such a case where a bad and blind observation is made by the disciplinary authority who is discharging the duties of a quasi judicial nature despite being informed by the applicant as no one should be vexed twice under the rules.”

SUBMISSIONS OF THE PETITIONERS:

17. The learned counsel for the petitioners submits that the learned



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Tribunal failed to appreciate that the allegation against the respondent was that he failed to inform the Department about his involvement in a criminal case. Accordingly, the Joint Commissioner of Police examined his case under Rule 12 of the Rules, and rejected the same.

18. He submits that the learned Tribunal also failed to appreciate that in the departmental inquiry, it was established on record that the respondent did not inform the department about his involvement in the criminal case. He was absconding, and non-bailable warrants (NBWs) had been issued against him. Further, the respondent remained unauthorizedly absent from duty during the period when the NBWs were in force. There is ample documentary evidence supporting the allegation and establishing the charge against the respondent. This is neither a case of “no evidence” nor is there any perversity in the decisions taken by the Disciplinary Authority and the Appellate Authority and that the findings of the enquiry may also be based on probabilities.

19. He further submits that the Disciplinary Authority passed a reasoned and speaking order, imposing the punishment of forfeiture of five years of approved service on the respondent, with a proportionate reduction in his pay with immediate effect, which is commensurate with the gravity of his misconduct.

20. He submits that the learned Tribunal, on wholly extraneous grounds and without any basis, held that the issue raised in the present O.A. pertained to the respondent’s involvement in the incident, whereas the charge against him related solely to his failure to inform the department about his involvement in the FIR.



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21. He further submits that the learned Tribunal failed to appreciate that after the respondent's acquittal in the criminal case, although there was no legal requirement to do so, his representation was nevertheless examined by the Competent Authority under Rule 12 of the Rules. The representation was rejected on the ground that the punishment already awarded to the respondent in the departmental inquiry had been duly considered by the Joint CP, and the same could not be acceded to as the departmental enquiry had been initiated on a distinct and independent charge, and the punishment was imposed for concealment of material facts, specifically his failure to inform the department about his involvement in a criminal case, which constitutes a violation of the CCS (Conduct) Rules.

22. He submits that the learned Tribunal, without any basis, commented on an alleged factual error by the authorities and imposed costs of Rs. 10,000/- each on the then Disciplinary Authority and the Appellate Authority for not adhering to the issues raised before them. He further submits that the Impugned Order is inherently perverse.

23. He submits that the respondent was acquitted in the criminal case by the learned Additional District & Sessions Judge, Muzaffarnagar, in the FIR solely on the ground that the three prosecution witnesses had turned hostile and did not support the case of the prosecution. He further submits that the said acquittal does not amount to an "honourable acquittal."

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

24. On the other hand, the learned counsel for the respondent



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submits that in FIR No. 291/2013, the respondent was falsely implicated in the riots that occurred in Muzaffarnagar on 16.09.2013. He claims that he was unaware of the said FIR and first came to know of it on 08.06.2014, when he visited his village during a two-day casual leave. Thereafter, he immediately filed an application for *interim* bail on 17.08.2014 before the learned Sessions Judge, Muzaffarnagar, and was granted bail. His anticipatory bail application was also considered and allowed.

25. He further submits that, in an affidavit dated 08.01.2014 submitted by the complainant- Sulaiman S/o Kamruddin before the Senior Superintendent of Police, Muzaffarnagar, the complainant stated that he had falsely named the respondent and others in the FIR due to tension and pressure from community members and that he did not wish to pursue the matter.

26. He also submits that ASI Krishanpal, then posted in Delhi, received a communication bearing No. 3337 dated 10.06.2014 through the R.I. Office, North-East District, seeking verification regarding the respondent's alleged arrest in FIR No. 291/13. Upon obtaining a copy of the FIR, ASI Krishanpal found that the investigation had been transferred to the SIT, Muzaffarnagar. Upon visiting Muzaffarnagar, he was informed by the Investigating Officer- Inspector Ram Rattan Singh that the respondent had never been arrested or taken into custody or surrendered before any police or court authority. When questioned by Inspector Baleshwar Singh, ASI Krishanpal reiterated that the respondent had not been arrested at any stage.

27. He submits that he was later acquitted in the criminal case *vide*



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Judgment dated 27.05.2019, wherein the learned Additional Sessions Judge, Muzaffarnagar, held that the allegations did not give rise to reasonable suspicion and discharged him from all charges arising out of the FIR. He submits that no appeal has been filed against the said Judgment. He submits that in view of the above, the learned Tribunal has rightly allowed the O.A. in favour of the respondent.

ANALYSIS AND FINDINGS:

28. We have considered the submissions made by the learned counsels for the parties.

29. The facts which emerge from the above submissions are that the respondent had been proceeded against departmentally on the following charge:—

“It is in evidence that You Ct. Anuj No. 694/NE, PIS No. 28071282 during the riot of Hindu-Muslim in Muzaffar Nagar District on 16.09.2013, a case vide FIR No. 291/13 U/s 395/436/295A IPC was registered at police station Phugana on the statement of complainant Sulaiman S/o Kamruddin, R/o Village Lishad, Police Station Phugana, Distt. Muzaffar Nagar, Uttar Pradesh. In the statement complainant reported that on 07.09.2013 at 06.30 PM you, Anuj S/o Rajender and other persons came at his house with illegal arms and sword and started robbery of valuable articles, jewellery and cash. After protest by him, they fired on him with the intention of murder. They were talking that after murder of all family members, the house will be set on fire. The SSP Muzaffar Nagar (UP) vide his letter dated 04.06.2014 had intimated to C.P. Delhi about the involvement/registration of the case against you Ct. Anuj No. 694/NE. But you had not



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*intimated the department about the case registered against you. Thus above mentioned act on part of you **CT. Anuj No. 694/NE, PIS No. 28071282** amounts to grave misconduct, negligence, carelessness and dereliction in the discharge of your official duties which render you liable for punishment under the provisions of Delhi Police (Punishment & Appeal) Rules 1980 read with section 21 of Delhi Police Act 1978.*

*Therefore, I Insp. Satender Pal Singh Tomar, E.O., here by charge you **CT. Anuj No. 694/NE, PIS No. 28071282** for the acts mentioned above.”*

30. A reading of the above charge shows that the respondent was not proceeded against on the ground of his involvement in a criminal case, but for his failure to intimate the department about the same.

31. The Inquiry Officer found the above Charge to be proved against the respondent. After accepting the Inquiry Officer's report, the Disciplinary Authority issued a notice dated 24.06.2015 to the respondent, along with a copy of the report, calling upon him to submit his representation thereagainst. The respondent submitted his representation, and he was also granted an oral hearing.

32. As the respondent had asserted that he had been falsely implicated in the case and that the Inquiry Officer had not ascertained the complete facts, the findings were remanded back under Rule 16(x) of the Rules, and Inspector Deen Dayal was nominated to ascertain the following information:—

- “(1). What was the role of Const. Anuj in case FIR No. 291/13 u/s 395/436/295 A IPC PS Phugana Distt. Muzaffar Nagar, UP.*
- (2). Whether any evidence has come against Const. Anuj in above noted case during*



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- investigation;
- (3). Whether Ct. Anuj arrested in above noted case / remained in JC, then period may be intimated
 - (4). Whether charge has been framed in this upon Cont. Anuj by the Court or, not;
 - (5). Whether any recovery has been affected from the Ct. Anuj in this case. If recovery effected the description of that property may be intimated.
 - (6). TIP was carried out in this case or, not? If carried out, then result of the TIP may be furnished.
 - (7). Present position of the case with next date of hearing in the Hon'ble Court."

33. Inspector Deen Dayal submitted a supplementary finding on 01.12.2015, stating as under:—

" In this regard a report regarding the above mentioned quires has been received from senior supdt. of Police Muzaffar Nagar UP through HAP 1st Bn. DAP vide office reference No. 9659 dated 04-11-2015. The poin: wise information against the query is as under:-

1. *Accused Anuj s/o Rajender r/o Village Lishad, PS Phugana Distt. Muzaffar Nagar is named in FIR No. 291/13 u/s 395/436/295A IPC. He has been charge sheeted u/s 395/436 IPC after examined the witnesses and sent to the hon'ble Court of CJM Muzaffar Nagar and charge sheet u/s 295A is to be admitted after taking permission from the competent authority.*
2. *Maximum evidence have been collected from the witnesses, complainant and the material evidence from the spot of occurrence by the investigating officer of the above mentioned FIR against the accused Ct. Anuj.*
3. *During the course of investigation NBW (Non Bailable Warrant) issued against the accused Ct. Anuj by the hon'able Court of CJM Muzaffar Nagar. Accused Anuj was*



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surrendered before the hon'able Court on dated 11-08-2014 was arrested and sent to Judicial Custody by the Hon'able Court.

4. The charge sheet u/s 395/336 IPC prepared against the accused and submitted in the Court of CJM Muzaffar Nagar UP vide No. 137/2014 dated 26-12-2014.

5. No recovery has been made from the accused Ct. Anuj by the investigation agency.

6. TIP not carried out because, the complainant and the accused belong to same village and known each other very well.

7. Charge sheet has been prepared against the accused Ct. Anuj and sent to the hon'able CJM Court and was listed for hearing vide No.9263/2014. The next date of hearing has been fixed for 30-10-2015."

34. The said inquiry report was also sent to the respondent *vide* notice dated 09.12.2015, and his representation thereagainst was again considered by the Disciplinary Authority.

35. By an Order dated 14.01.2016, the Disciplinary Authority imposed upon the respondent the punishment of forfeiture of five (05) years of approved service permanently, entailing proportionate reduction in pay with immediate effect. For arriving at the above conclusion and imposing the punishment, the Disciplinary Authority recorded as under:—

"I have carefully gone through the findings and supplementary findings of Enquiry Officer, Representation of delinquent Constable and other record made available on De file during enquiry. For the sake of natural justice, he was also again heard in O.R. on 12.01.2016. In his submission he has pleaded that (i) he has been falsely implicated in the case as on the day of incident i.e. on 07.09.2013 he was on duty in Special Staff/North-Cast Distt. Plea is considered and



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rejected as the delinquent Constable could not produce any document/record showing his presence on duty. Moreover, he has surrendered himself before the Hon'ble court on 11.08.2014, arrested and was sent to judicial custody as per the supplementary findings of the Enquiry Officer.

In second plea he stated that he got anticipatory bail from High Court of Allahabad on 26.08.2014 and was not arrested in this case. Plea is considered and rejected on the ground that the delinquent Constable could not produce any documentary paper in regard to anticipatory bail granted by Hon'ble High Court. As per report of SSP/Special Investigation Cell, Muzaffarnagar dated 28.10.2015 the delinquent Constable was arrested on 11.08.2014 and was sent to judicial custody which clearly shows that he remained in JVC from 11.08.2014 to 26.08.2014.

In third plea the delinquent Constable stated that the Enquiry Officer has twisted the story and ignored the basic facts. Plea is considered and rejected as the findings of the EO are based on facts and documents made available during enquiry. The delinquent Constable has arrested in this criminal case and investigation of the case and charge sheet filed against him before the Hon'ble Court further corroborating and establishing his involvement in criminal case which cannot be overlooked.

In fourth plea he pleaded that he could not inform the department about the said criminal case as he had thought that affidavit filed by the complainant Sulaiman has disposed off the matter. Plea is considered and rejected as affidavit filed by the complainant is a matter of investigation and on having been arrested and detained in judicial custody from 11.08.2014 to 26.08.2014 the delinquent Constable should have at least to informed the department but he failed to do so. In this way he has tried to keep the department in dark



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with some oblique motives.

Therefore, keeping in view of all facts and circumstances I am of the considered view that delinquent Constable has involved himself in above heinous crime which is not expected from police personnel and a member of a uniformed organization. A police person is supposed to protect the public and property but contrary to the ethics of policeman as well as good human being, the delinquent Constable himself involved in above serious criminal case which amounts to grave misconduct. Apart the delinquent Constable also deliberately and intentionally did not inform the department about his involvement in criminal case which is further violation of CCS (Conduct) Rules.

*Therefore, considering all facts of the case I am of the view that the delinquent has committed an act unbecoming of Police officer and deserve a major penalty which I believe will work as a deterrence and curb such kind misdeeds to some extent. As such in consonance with the findings of Enquiry Officer, I, Brahm Singh, Deputy Commissioner of Police/1 Bn. DAP, Delhi award punishment **forfeiture of 95 (five) years approved service permanently** to Const. Anuj, No.845/DAP **entailing proportionate reduction in his pay with immediate effect.**”*

36. Aggrieved by the above, the respondent filed an appeal before the Appellate Authority, wherein he admitted that he came to know of the FIR on 08.06.2014. He also stated that he was granted ‘Anticipatory Bail’ on 26.08.2014. He submitted that, as he was not aware of any rule in this regard, he did not inform the department about the registration of the FIR in time. He stated that he had surrendered himself on 11.08.2014 before the Court of the learned Sessions Judge, Muzaffarnagar, and was granted *interim* bail on the same day, which



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was eventually confirmed by Order dated 26.08.2014.

37. The Appellate Authority considered the above plea of the respondent, however, by an Order dated 29.06.2016, it dismissed the appeal, observing as under:—

"I have carefully gone through the appeal, impugned order dated 14.1.2016 and all the relevant material available on the record. I have also heard the appellant in the Orderly Room on 28.6.2016. During the OR, he has re-iterated the pleas already raised in his appeal, which are devoid of merits. The disciplinary authority has passed the punishment order after going through all the facts and circumstances of the case and evidence on the record," which is in accordance of rules and as per instructions circulated by the PHQ vide No.12230-430/CR-1/PHQ dated 16.4.2002. The plea of the appellant that: on.7.9.2013 (the day of incident) he was on duty in Special Staff/North-East is devoid of merit as he has not submitted any documentary evidence in support of his claim. It is a matter of record that on the complaint of one Sulaiman, a case. FIR No.291/13 dated 16.9.2013, u/s 395/436/295-A IPC, PS Phugana, Muzaffar Nagar (UP) was registered against the appellant and others. On the perusal of the report of SSP/Special Investigation Cell, Muzaffar Nagar, UP dated 20.10.2015, placed in the DE file, it has revealed that during the course of investigation, NBW (Non Bailable Warrant) was issued against the appellant by the Hon'ble Court of CJM, Muzaffar Nagar, hence, the appellant had surrendered himself before the Hon'ble Court on 11.8.2014, was arrested and sent to the Judicial Custody by the Hon'ble Court. The local police had also filed charge sheet against the appellant. The plea of the appellant that he could not inform the department about the said criminal case as he had thought that affidavit dated 8.1.2014



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filed by the complainant Sulaiman has disposed off the matter, is not accepted as affidavit filed by the complainant is a matter of investigation. The case is still pending trial. The plea of the appellant that the punishing authority has wrongly mentioned in the punishment order that the appellant was remained in the judicial custody w.e.f. 11.8.2014 to 26.8.2014, whereas he was granted interim bail on 11.8.2014 is not accepted at this stage because it has been clearly mentioned in the punishment order that the appellant has not produced any documentary paper in regard to anticipatory bail granted by the Hon'ble Court. The E.O. has conducted the DE as per the rules and submitted his findings on the basis of statement of the PW; defence statement of the appellant and documentary evidences available in the DE file. The court ruling cited by the appellant is appreciable but it cannot be overlooked that the nature and circumstances of each case is different and the decision is accordingly taken on merit and circumstances. During the DE proceedings, the charge levelled against the appellant has been proved on the basis of statement of the PW and material available in the DE file. The appellant failed to maintain his conduct and absolute integrity as a member of a disciplined force, like Delhi Police and has involved in a serious criminal case which cannot be tolerated. Keeping in view the facts of the case and the material available record, in the file, I do not find any reason to interfere with the impugned order. The appeal is, accordingly, rejected."

38. The respondent did not further challenge the said order, and only after his acquittal in the criminal case by the judgment dated 27.05.2019 passed by the learned Additional District & Sessions Judge,



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Muzaffarnagar, filed a representation under Rule 12 of the Rules. However, the same came to be rejected *vide* Order dated 15/17.10.2019, recording as under:—

“In pursuance to Judgment dated 27.05.2019 passed by Addl District and Session Court No 12, Muzaffar Nagar in case FIR No 291/2013 u/s 395/436/295 A IPC PS Phugana and on receiving prosecution clearance from Sh Amit Singh, Ld Addl District Magistrate through SSP/Muzaffar Nagar vide his office letter No 01/2018 dated 20.08.2019, the Judgment dated 27.05.2019 has been examined under Rule 12 of Delhi Police (Punishment & Appeal) Rules-1980. It is found that a DE has already been initiated against Ct Anuj No 694/NE (now 845/DAP) vide order No 7793-7810/HAP/P-I/1st Bn DAP dated 15.07.2014 for not intimating the department regarding his involvement in above mentioned FIR which is finalized vide order No 244-60/HAP/P-1/1 Bn DAP dated 14.01.2016 r/w appellate order No 1792-95/P Sec/Addl CP/AP dated 29.06.16. Hence, no further departmental action is warranted against him in this regard. However, his name is deleted from the list of police personnel involved in the criminal case. Further his representation to revisit the punishment order already awarded to him in above mentioned DE order has been considered by Worthy Joint CP/AP but could not acceded to since DF was initiated on different perspective and punishment was awarded for concealment of fact i.e not intimating the department regarding his involvement in criminal case which is against CCS Conduct Rules.

Let the Constable be informed accordingly.”

39. From the above narration of facts, it is evident that although the Disciplinary Authority and the Appellate Authority took note of the



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criminal case and the fact that the respondent was in custody from 11.08.2014 to 26.08.2014, the entire disciplinary proceedings and the punishment were based solely on the charge that he had not informed the department of the registration of the FIR. The allegations in the FIR were, therefore, irrelevant to the departmental proceedings; the only issue was whether the respondent informed the department in time after coming to know of the FIR.

40. On this charge, the respondent himself admitted that he came to know of the registration of the FIR on 08.06.2014, but failed to inform the department. The charge, therefore, stood proved against him.

41. The learned Tribunal, however, solely on the basis that the respondent was later acquitted in the criminal case, set aside the entire departmental proceedings, observing as under:—

“15. The issue raised in the present OA regarding involvement of the applicant in this incident which took place on 16.09.2013 is erroneous on the basis of the record itself. Even the applicant was acquitted also still the department was bent upon to impose penalty of forfeiture of five years approved service permanently, which is highly improper and illegal. Thus, we hereby set aside both the orders of disciplinary authority as well as appellate authority. We have never come across such a case where a bad and blind observation is made by the disciplinary authority who is discharging the duties of a quasi judicial nature despite being informed by the applicant as no one should be vexed twice under the rules.

16. Keeping in view the facts and circumstances of the case, we allow this OA with the observation that the orders of the disciplinary authority and appellate authority



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are hereby set aside and cost of Rs.10,000/- each is imposed on concerned Deputy Commissioner of Police as well as on Additional Commissioner of Police for non-adherence to the proceedings which was raised before them as one after other factual error has been committed by them. The concerned Commissioner of Police is directed to make recovery of the said cost of Rs.10,000/-imposed, from their salary and the same deduction shall be deposited in the Prime Minister's Relief Fund. The same shall be informed in writing by the respondents to this Tribunal. This exercise shall be completed by the respondents within a period of thirty days from the date of receipt of a certified copy of this order. The respondents are further directed to pay back all the monetary benefits to the applicant with 6% interest within a period of two months from the date of receipt of certified copy of this order."

42. In our view, the learned Tribunal has completely misdirected itself, inasmuch as the acquittal of the respondent in the criminal case was irrelevant to the departmental proceedings. The charge against the respondent and the punishment imposed upon him were based solely on his failure to report the registration of the FIR to the department in time. The principle of *double jeopardy* had no role to play in these proceedings.

43. Now coming to the plea that the petitioners had wrongly noted that the respondent had been in judicial custody from 11.08.2014 to 26.08.2014, it is evident from the documents filed by the respondent that he was granted '*interim bail*' vide Order dated 17.08.2014. Therefore, the respondent must also have been taken into custody, the details of which have not been disclosed by him. The petitioner claims



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that he was on anticipatory bail, however, the same cannot be believed in absence of any order placed on record, as, in fact, in the State of U.P., Section 438 of the Cr.P.C. providing for anticipatory bail was not even available. Be that as it may, this fact is also irrelevant to the charge framed against the respondent in the departmental proceedings.

44. The learned Tribunal also failed to appreciate that although the appeal filed by the respondent was dismissed by an Order dated 29.06.2016 passed by the Appellate Authority, the respondent accepted this order and did not challenge it further until he filed his representation dated 08.08.2019 under Rule 12 of the Rules. Rule 12 of the Rules had no application to the facts of the present case.

45. Rule 12 of the Rules reads as follows:—

“12. Action following judicial acquittal.

When a police officer has been tried and acquitted by a criminal court, he shall not be punished departmentally on the same charge or on a different charge upon the evidence cited in the criminal case, whether actually led or not unless-

(a) the criminal charge has failed on technical grounds, or

(b) in the opinion of the court, or on the Deputy Commissioner of Police the prosecution witnesses have been won over; or

(c) the court has held in its judgment that an offence was actually committed and that suspicion rests upon the police officer concerned; or

(d) the evidence cited in the criminal case disclose facts unconnected with the charge before the court which justify departmental proceedings on a different charge; or

(e) additional evidence for departmental proceedings is available.”



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46. In the present case, as noted hereinabove, the respondent had not been tried on the same charge or on any different charge based upon the evidence cited in the criminal case. The representation was, therefore, rightly rejected by the competent authority *vide* Order dated 15/17.10.2019.

47. In view of the above, the Impugned Order passed by the learned Tribunal cannot be sustained. The same is, accordingly, set aside.

48. The petition, along with the pending application, is disposed of in the above terms.

49. There shall be no order as to costs.

NAVIN CHAWLA, J.

MADHU JAIN, J.

DECEMBER 23, 2025/rv/DG