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FOR PUBLICATION IN THE DELHI POLICE GAZETTE : DELHI

(Orders passed by the Deputy Commissioner of Police : Establishment : Delhi)

Dated 13/3 **/2020**

No. A/1/3(8)/2018/ 1415 **/CB-II/PHQ : REMOVAL OF NAME FROM PROMOTION LIST FOR THE POST OF SI (EXE.):** - The name of ASI (Exe.) Prem Pal, No. 5010-D (PIS No. 28821761) was admitted to Promotion List for the post of SI (Exe.) w. e. f. 19.09.2016 in terms of Rule-16(i) of Delhi Police (Promotion & Confirmation) (Amendment) Rules, 2015 vide PHQ's Notification No. A/1/3(4)/2016/56243/CB-II/PHQ dated 20.09.2016 for training in Upper School Course. He was deputed for his promotional training in Upper School Course Batch No. 38 commenced w.e.f. 01.02.2018 at PTS, Wazirabad, Delhi but he did not report for the same.

After induction of his name to Promotion List for the post of SI (Exe.) w.e.f. 19.09.2016, a Departmental Enquiry was initiated against him vide order No. 18513-30/HAP/NE (P-II) dated 01.11.2016. In the said DE, the disciplinary authority agreeing with the finding of the EO, awarded him a major punishment of forfeiture of one year approved service permanently v/o. dated 16.05.2018 on the allegations that on 09.09.2016 at 8:58 PM, a PCR call vide DD No. 101-B was received in PS-Khajuri Khas, which was entrusted to the defaulter SI and the Constable for necessary action who conducted the enquiry in the above PCR call of the allegations of eve-teasing/molestation with the lady caller address H. No. A-406, Gali No. 9, Part-5, Sonia Vihar, Delhi against one person namely Vinod Gupta s/o. Late Sh. Rakesh Kumar r/o. H. No. B-271, Gali No. 4, Prem Vihar, Shiv Vihar, Karawal Nagar, Delhi, who was taken to PS-Khajuri Khas during the enquiry after his treatment as he was found in injured condition. During enquiry, the defaulter SI had recorded the statement of Vinod Gupta, in which he revealed that he was physically assaulted by Rahul, Rajesh and two unknown persons (allegedly bootleggers) against whom he had made complaints to police and he was robbed off his mobile phone by Rahul. Accordingly, two different cases vide FIR No. 669/16 dated 10.09.2016 u/s. 354/354-B/506/509 IPC PS-Khajuri Khas (against accused Vinod Gupta) and FIR No. 670/16 dated 10.09.2016 u/s. 392/397/506/34 IPC PS-Khajuri Khas (on the statement of Vinod Gupta) were registered. It is further alleged that the defaulter SI and the Constable did not arrest accused Vinod Gupta in case FIR No. 669/16 dated 10.09.2016 u/s 354/354-B/506/509 IPC PS Khajuri Khas despite the fact that he was present in the police station and his statement was recorded by the defaulter SI for registration of case FIR No. 670/16 dated 10.09.2016 u/s. 392/397/506/34 IPC PS-Khajuri Khas. Accused Vinod Gupta slipped away from the police station due to negligence and irresponsible act of the defaulter SI and the Constable. His suspension period from 11.09.2016 to 28.10.2016 was also decided as period 'not spent on duty' for all intents and purposes. Besides, after induction of his name to Promotion List for the post of SI (Exe.) w.e.f. 19.09.2016, he has also been awarded 04 Censures v/o. dated 04.10.2016, 07.10.2016, 27.12.2016 and 17.01.2019 (i.e. after issuance of the said SCN).

As per provision contained in Rule-7(ii) of the Delhi Police (Promotion & Confirmation) (Amendment) Rules, 2015, an officer on promotion list should maintain good conduct and efficiency. Any police officer whose name exists on promotion list, if found guilty of a misconduct of nature reflecting upon his character or fitness for responsibility or who shows either by specific acts or by his record as a whole that he is unfit for promotion to higher rank, his name can be removed from promotion list.

The award of major punishment of forfeiture of one year approved service permanently v/o. dated 16.05.2018 in DE dated 01.11.2016 i.e. after induction of his name to Promotion List for the post of SI (Exe.) shows that he failed to maintain good conduct and efficiency and, thus, not fit to shoulder higher responsibility in the rank of Sub-Inspector. Accordingly, he was served upon the Show Cause Notice in accordance with Rule-7(ii) of the Delhi Police (Promotion & Confirmation) (Amendment) Rules, 2015, vide this Hdqrs. U.O. No. A/1/3(8)/2018/47987-88/CB-II/PHQ dated 05.09.2018 proposing therein to remove his name from Promotion List for the post of SI (Exe.) w.e.f. 19.09.2016.

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The ASI submitted his written reply thru' DCP/North-East Distt., Delhi's office memo. dated 23.10.2018 stating therein that he could not attend his Upper School Course commenced w.e.f. 01.02.2018 as he met with an accident on 16.01.2018 and thereafter remained on medical rest. He resumed his duty vide DD No. 67B dt. 05.03.18, PS-Gokal Puri. He further stated that an enquiry was initiated against him on the basis of non evidence and no negligence was found against him and he has also submitted an appeal before the Jt. CP at PHQ against the punishment order dated 16.05.2018. The incident for initiation of DE is of dated 09.09.2016 and therefore this clause cannot be considered against him as he was placed on promotion list w.e.f. 19.09.2016. Since, case FIR Nos. 669/16 and 670/16 PS-Khajuri Khas are pending trial in the court and till these cases are decided he cannot be charged for laxity of duty and subsequent departmental proceeding cannot be considered legal. He also stated that none of the 03 Censures pertains to any act or omission which attracts moral turpitude and cannot be considered in such promotional matter. He further requested to withdraw the Show Cause Notice and depute him for the next Upper School Course as he is fully fit for that. He was heard in person on 28.02.2019. During personal hearing, he requested to keep pending the said SCN till finalization of his appeal filed against the major punishment of forfeiture of one year approved service permanently awarded to him v/o. dated 16.05.2018. Accordingly, his SCN was kept pending till the final decision of his appeal.

Now, the appeal filed by ASI (Exe.) Prem Pal, No. 5010-D (PIS No. 28821761) against the major punishment of forfeiture of one year approved service permanently awarded to him v/o. dated 16.05.2018 in DE dated 01.11.2016 has been decided by the Joint CP/Eastern Range, Delhi and after considering his submissions and using the principle of proportionality, the Appellate Authority reduced the said punishment to that of forfeiture of one year approved service temporarily vide his office order dated 13.12.2019.

I have carefully gone through the order dated 13.12.2019 passed by the Appellate Authority vide which the major punishment dated 16.05.2018 has been reduced to that of forfeiture of one year approved service temporarily as well as the reply submitted by ASI (Exe.) Prem Pal, No. 5010-D (PIS No. 28821761) in response to the SCN dated 05.09.2018 issued to him for removal of his name from Promotion List for the post of SI (Exe.). While deciding his appeal against the major punishment dated 16.05.2018, the Appellate Authority concluded that the ASI neither arrested accused Vinod Gupta nor lodged any DD entry regarding handing over the accused to Chittha Munshi despite the fact that the accused was present in the police station and he got recorded his statement for registration of case FIR No. 670 dated 10.09.2016. Accused Vinod Gupta slipped away from the police station due to the negligence and irresponsible act of the appellant. I have also heard him in person again on 21.02.2020. During his personal hearing, he did not adduce any new ground except what he has already mentioned in his reply to the SCN. The averments made by the applicant in his reply to the Show Cause Notice dated 05.09.2018 as well as in personal hearing have no justification and are completely unconvincing.

In view of the above, it is crystal clear that the officer is guilty of misconduct, which shows that he is unfit to hold higher post/responsibility. As such, the Show Cause Notice dated 05.09.2018 issued to ASI (Exe.) Prem Pal, No. 5010-D (PIS No. 28821761) is confirmed and his name is hereby removed from Promotion List for the post of SI (Exe.) w.e.f. 19.09.2016.

03/03/2020

(M. I. HAIDER)
DY. COMMISSIONER OF POLICE:
ESTABLISHMENT : DELHI.

No. A/1/3(8)/2018/ 14116-20 /CB-II/PHQ dated, Delhi the 03/3 /2020.

Copy to:-

1. DCP/Outer-North Distt., Delhi with one spare copy to deliver the same to ASI (Exe.) Prem Pal, No. 5010-D (PIS No. 28821761) against his proper receipt, which may be kept in his Fauzi Missal and a copy thereof also be sent to this Hdqrs. for record.
2. Inspr. Estt./PHQ for publication in D.P.G.
3. ACs-IV, VIII & Record in CB/PHQ.