All India Services (Discipline & Appeal) Rules, 1969 - Disciplinary action against Shri Rahul R Nair IPS (KL:2008) - Finalized - Orders issued.

GENERAL ADMINISTRATION (SPECIAL C) DEPARTMENT


Read

1. Letter No.19/Camp/SPC/2014 dated 09.06.2014 from the State Police Chief, Thiruvananthapuram.

2. Letter No.75/Camp/DVACB/14 dated 14.11.2014 from the Director, Vigilance & Anti-Corruption Bureau, Thiruvananthapuram.


5. Written Statement of defence dated 12.01.2015 submitted by Shri Rahul R Nair IPS.


9. Written Statement of Defence on the Revised Articles of Charge & Statement of Imputations dated 15.05.2017 submitted by Shri Rahul R Nair IPS.


11. Judgement dated 05.06.2018 of the Hon’ble Enquiry Commissioner & Special Judge, Thiruvananthapuram in VC 05/14/SIU-I.


ORDER

Disciplinary action was initiated against Shri Rahul R Nair IPS (KL:2008), while holding the post of the Superintendent of Police, Pathanamthitta on the basis of a report in a preliminary enquiry conducted by the Director, Vigilance & Anti-Corruption Bureau on certain allegations of corruption levelled against the officer vide letter read as 1st paper above. Articles of Charge and Statement of Imputations, read as 4th paper above, were served on the officer. Following charges were levelled against him.

(i) Shri Rahul R. Nair IPS demanded Rs. 20 lakhs from Sri Jayesh Thomas who was issued stop memo in connection with the operation of Shano
Metal Crusher, Kozhencherry, for allowing resumption of the operation of Shania Metal Crusher through Shri. Ajithkumar acting as middle man for transactions.

(ii) In his statement in the preliminary enquiry, he admitted that he had registered a flat for Rs. 47 lakhs from Divine Builders, Kochi by availing a loan from Bank of Hyderabad. But, he did not submit prior intimation to Government under Rule 16 of AIS (Conduct) Rules for purchasing the property which is violation of AIS (Conduct) Rules.

2. In the written statement of defence submitted by Shri. Rahul R. Nair IPS read as 5th paper above, he denied the charges levelled against him as baseless and untenable and served without list of witnesses and list of documents in support of Articles of Charge. Regarding the second charge, he submitted that he had sought for permission as per his letter dated 29.04.2014 with proforma under Rule 16(4) of the AIS (Conduct) Rules, 1968 addressed to the Chief Secretary for purchasing a flat from Divine Builders, Kochi and the sale deed was executed only on 05.05.2014 after intimating Government.

3. In the meanwhile, the Director, Vigilance & Anti-Corruption Bureau as per the letter read as 3rd paper above reported that a vigilance case was registered as VC 5/14/SUI-1 under sections 7,8,13(1) (d) of the Prevention of Corruption Act against Shri Rahul R. Nair IPS and Shri Ajithkumar (Private Person) before the Enquiry Commissioner and Special Judge's Court, Thiruvananthapuram on 17.11.2014.

4. The Director, Vigilance & Anti-Corruption Bureau as per letter read as 6th paper has rejected the arguments of the officer in his written statement of defence and has stated that the enquiry established, prima facie that the accused officer acted with the criminal motive of obtaining pecuniary advantage of himself.

5. The State Police Chief vide letter read as 7th paper above opined that as Vigilance & Anti-Corruption Bureau has registered a Vigilance Case against Shri. Rahul R. Nair IPS, and the investigation is going on the contentions raised by the officer need to be examined in the light of the case.

6. On subsequent verification and examination of records, revised Articles of Charge and Statement of Imputations read as 8th paper above were issued to the officer accepting the defence of the officer on the 2nd charge. The charge against the officer is extracted below:-

"That you, Rahul R. Nair IPS while holding the post Superintendent of Police, Pathanamthitta had offered the closure of Shania Metal Crusher, Kozhencherry on 01.05.2014 and thereafter on 04.5.2014 ordered its reopening without any justifiable or valid legal grounds. That you demanded Rs. 20 lakhs from Shri. Jayesh Thomas for allowing resumption of the operation of Shania Metal Crusher and gave Shri. Jayesh Thomas the mobile number of Shri. Ajithkumar as your middleman for further transactions. Frequency, duration and pattern of the calls between you and Shri. Ajithkumar during end of April and the first half of May, 2014 also revealed the involvement of the two in the negotiations and transactions relating to closure and reopening of the quarries. Shri Ajithkumar negotiated with Shri. Jayesh Thomas with regard to the cash to be paid to for the reopening of Shania Metal Crusher and received Rs. 17 lakhs from Shri. Jayesh Thomas at Ernakulam on 04.05.2014 as middleman on behalf of you for reopening of Shania Metal Crusher.

That you, abused your official position as a public servant by ordering closure of quarries without any legal authority vested in you. Similarly, your demand for illegal gratification and receipt of the same through this middleman Shri Ajithkumar
are reflections of the criminal misconduct on your part."

7. In response to the revised Articles of Charges, Shri. Rahul R.Nair IPS submitted his Written Statement of Defence read as the 9th paper above wherein he has reiterated all his earlier contentions. In addition, he stated that the allegations based on which the Articles of Charge were framed are actually acts of misconduct falling within the purview of Prevention of Corruption Act, 1988 and is not liable to be enquired into departmentally. A vigilance investigation is being conducted in respect of the same set of allegations as contained in the Articles of Charge dated 11.04.2017.

8. The Director, Vigilance & Anti-Corruption Bureau, vide letter read as 12th paper above reported that in the judgment dated 05.06.2018 of the Enquiry Commissioner & Special Judge, Thiruvananthapuram, the Hon'ble Court has accepted the final report in VC 05/14/SIU-I in which it was found that there are no materials revealed in the investigation to come to a conclusion that the accused had committed any offences as alleged and dropped further action in the matter.

9. After having examined all aspects in detail and considering the fact that the Hon'ble Court of the Enquiry Commissioner and Special Judge has dropped further action in VC No.5/14/SIU-I, Government have decided to drop the disciplinary proceedings initiated against Shri. Rahul R.Nair IPS(KL:2008) and to exonerate from the charges levelled against him, and issue orders accordingly.

(By Order of the Governor),

TOM JOSE

Chief Secretary to Government.

To,

Shri. Rahul R.Nair IPS, District Police Chief, Ernakulam Rural (Through the
DGP and State Police Chief, PHQ, Thiruvananthapuram.)
The Principal Accountant General (Audit/A&E) Kerala, Thiruvananthapuram.
The Secretary to Government of India, Ministry of Home Affairs, North Block,
New Delhi - 110 001.
The Director General of Police & State Police Chief, Thiruvananthapuram.
The Director, Vigilance & Anti-Corruption Bureau, Thiruvananthapuram.
The General Administration (SC) Department.
The Home Department.
The Vigilance Department.
The Web & New Media Division of I&PRD.

Copy to:-
The Chief Principal Secretary to Chief Minister.
The Private Secretary to Chief Minister.
The Special Secretary to Chief Secretary.
The PA to Additional Chief Secretary, Home & Vigilance Department.
The PA to Principal Secretary, General Administration Department.
The P.A to Additional Secretary, General Administration (Special A&C)Dept.
Stock File/Office Copy.

Forwarded/ By order,

Section Officer