

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

Hon'ble Shri Shanker Raju, Member (Judicial)

O.A.No.1144/2001

New Delhi, this the 8th day of February, 2002

SI Vikram Rathi
s/o Sh. M.S.Rathi
R/o 267, PTS Police Colony
Malviya Nagar
New Delhi. Applicant

(By Advocate: Shri Bhaskar Bhardwaj, proxy of Shri
Arun Bhardwaj)

Vs.

1. Union of India through
the Commissioner of Police
IP Estate, PHQ
New Delhi.
2. Jt. Commissioner of Police
Southern Range
Police Headquarters
MSO Building, I.P.Estate
New Delhi.
3. Deputy Commissioner of Police
Distt. West
Delhi. Respondents

(By Advocate: Shri George Peracken)

O R D E R(Oral)

By Shanker Raju, Member (J):

Applicant, who is working as Sub-Inspector in Delhi Police, has assailed adverse remarks recorded in the ACR for the period 26.10.1998 to 31.3.1999 wherein the reviewing authority has recorded that the applicant needs close watch because of the complaints of misbehaviour during public dealings. Against the adverse remarks the applicant has preferred representation which has been rejected by maintaining the remarks by the representing authority by an order dated 8.5.2000. Both these orders are assailed in the present OA.

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2. Learned counsel for the applicant stated that the remarks of reviewing authority are not subjective and without any material on record. The applicant has never been issued any warning or advisory memorandum in writing rather it has been stated that he has been warned orally. Even the complaints received by the reviewing authority are also oral which have not been put to the applicant and having not been confronted with the same the same cannot be legally taken into consideration. It is lastly contended that the reasons have not been recorded by the representing authority either in the order or in the file and the order passed by the respondents on the representation, is liable to be set-aside.

3. Learned counsel for the respondents, on the other hand, strongly rebutting the contentions furnished before me the relevant record pertaining to the ACR of the applicant. I have perused the same and returned it to the respondents' counsel. It is stated that the reviewing authority has rightly described and recorded his remarks as various oral complaints and written complaints have come before him against the applicant and there is nothing illegal to incorporate the same in the ACR. It is also stated that the applicant has been issued verbal warnings by the reporting officer as well as by the Reviewing Authority. In this back ground, it is stated that this Court is not competent to act as an appellate authority over the remarks entered in the ACR unless the same are malafide or in violation of statutory

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rules. As regards the order passed on the representation though he has failed to show any reasons have been recorded on the file by the Joint Commissioner of Police indicating his application of mind but has referred to an order, annexed by the applicant, Annexure A2.

4. Having regard to the rival contentions of the parties and after given careful thought to the contentions, I am of the considered view that the order passed on representation on 8.5.2000 is not legally sustainable in view of the decision in U.P.Zal Nigam Vs. Union of India & Others, 1996 (33) ATC 217 as well as in Union of India Vs. K.G.Namboodri, AIR 1999 SC 1216 wherein it is held that if a decision on representation is challenged pertaining to ACR the same is to be justified by placing the file where the reasons for arriving at such decision are recorded. In this view of the matter, as I find that the order passed is mechanical neither any reasons are recorded in the order nor in the personal file the impugned order is liable to be set-aside.

5. I accordingly partly allow the OA and set-aside the impugned order dated 8.5.2000 and remand the case back to the representing authority to dispose of the representation of the applicant preferred against his adverse ACR in accordance with law dealing with all his contentions within a period of two months from the date of receipt of a copy of this order. No costs.

S. Raju

(SHANKER RAJU)
MEMBER(J)