

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.160/2001

New Delhi, this 21st day of August, 2001

Hon'ble Shri M.P. Singh, Member(A)  
Hon'ble Shri Shanker Raju, Member(J)

Dinesh Kumar Sharma  
Flat No.11H, Vikram Apartments  
Sector 13, Rohini, Delhi-85 .. Applicant

(By Shri A.K. Behera, Advocate)

versus

1. Secretary  
M/Home Affairs, North Block, New Delhi
2. Commissioner of Police  
Police Hqrs., IP Estate, New Delhi
3. Director of Vigilance  
Govt. of NCT of Delhi, Delhi
4. Principal Secretary(Services)  
Govt. of NCT of Delhi, Delhi
5. Dy. Commissioner of Police  
Anti-Corruption Branch  
Room No.178-184, Old Sectt, Delhi .. Respondents

(By Shri Mohit Madan, proxy for Mrs. Avnish Ahlawat,  
Advocate)

ORDER(oral)

Shri M.P. Singh

The applicant by filing this OA has sought relief by praying for direction to quash the observations contained in the impugned letters dated 14.7.99 and 2.3.2000 and not to take the same into consideration for any service benefit to which he is entitled to.

2. Brief facts of the case are that the applicant was initially appointed as Head Constable in CRPF on 26.9.81. Thereafter he was transferred to Delhi Police on deputation and subsequently he was absorbed in Delhi Police in September, 1991. While he was posted in Anti Hoarding Cell (AHC) under the control of Food & Supplies Deptt. of Govt. of NCT, Delhi, he had investigated certain complaints in which one of the police officers namely J.S. Malik, ACP was involved. It is the

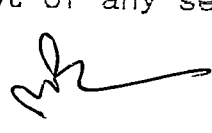


contention of the applicant that since he has taken action against the said police officer, he has been harassed and a number of anonymous complaints were received against him. Consequently, a secret enquiry has been held and as per the findings of this enquiry, the applicant does not enjoy sound reputation. It is because of this finding that the applicant was transferred from AHC of Food & Supplies Deptt. of Delhi back to Delhi Police. The grievance of the applicant is that he has been transferred to a non-sensitive post because of the finding of the enquiry. Since the finding of the enquiry has resulted in a civil consequence, he ought to have been communicated these adverse observations and given a chance to defend himself. Aggrieved by this, he has filed this OA claiming the aforesaid relief. 10

3. Respondents have not denied the fact<sup>that</sup> an enquiry has been held against the applicant and it was on the basis of letters dated 14.7.99 and 20.3.2000 that the applicant has been repatriated to his parent department.

4. Heard the rival contentions of the contesting parties and perused the records.

5. During the course of the arguments, learned counsel for the applicant stated that the letters dated 14.7.1999 and 2.3.2000 have been used against the applicant and he has not been communicated these observations and afforded an opportunity to make representation against the same. On the other hand, learned counsel for the respondents stated that these remarks are not of any serious nature and therefore have



not been recorded in his CR which could be communicated to him as per the instructions of the Government. He also stated that these remarks cannot be construed as an order to be impugned and challenged under Section 19 of the AT Act, 1985. The learned counsel for the applicant stated that since these remarks have been used to effect the transfer/posting of the applicant and have visited him with civil consequences, the same ought to have been conveyed to him so as to give him an opportunity to defend himself. (11)

6. After hearing both the learned counsel and perusing the records, we are of the considered view that letters dated 14.7.99 and 2.3.2000 have been taken into consideration by the respondents while transferring the applicant from AHC of the Food & Supplies Deptt. to his parent department and thus have adversely affected the service conditions of the applicant. We, therefore, direct the respondents not to take into account these remarks while considering him for promotion/transfer/posting or any other service benefits in future. In case, the respondents propose to retain the remarks in the service record of the applicant, they shall convey these remarks to the applicant and afford him an opportunity to represent against the same.

7. The OA is disposed of with the above directions. No costs.

S. Raju

(Shanker Raju)  
Member(J)

/gtv/

M.P. Singh

(M.P. Singh)  
Member(A)