

Central Adminisrative Tribunal
Principal Bench

O.A.No.76/2001

Hon'ble Shri Govindan S. Tampi, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

(17)

New Delhi, this the 7th day of October, 2002

Shri Akshay Kumar
s/o Shri V.K.Rastogi
4th Battalion, Delhi Armed Police
Kingsway Camp
Delhi.

... Applicant

(By Advocate: Sh. P.I.Oommen)

Vs.

Union of India through

1. The Secretary
Ministry of Home Affairs
North Block
New Delhi - 110 001.
2. Commissioner of Police Delhi
Police Headquarters
Indraprastha Estate
New Delhi.
3. Additional Commissioner of Police
New Delhi Range
New Delhi.
4. The Joint Commissioner of Police
Rashtrapathy Bhawan (security)
New Delhi.
5. Deputy Commissioner of Police
North East
Delhi.

... Respondents

(By Advocate: Sh. George Paracken)

O R D E R(Oral)

By Shri Shanker Raju, M(J):

Applicant, in this OA, has impugned an appellate order dated 25.11.1999 where on a departmental inquiry punishment of censure imposed, was confirmed as well as respondents' order dated 15.1.1997 where the name of the applicant has been brought on record and continued in the Secret List of persons having doubtful integrity.

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2. Applicant was proceeded against in a departmental inquiry on the allegations of lack of professional competence and supervision as on the complaint of theft on 18.4.1996, a case was not registered initially and no meaningful investigation of the case was done even after the registration of the case on 25.7.1996, and on the conclusion of the inquiry, inquiry officer held the applicant guilty of the charge.

3. On filing a representation against the finding, disciplinary authority imposed upon the applicant a punishment of a minor penalty of censure by an order dated 2.11.1998. On filing an appeal dated 20.12.1998, against the order of the disciplinary authority, the appellate authority has upheld the punishment, giving rise to the present OA.

4. Learned counsel for applicant states that his appeal has been rejected on technical grounds of limitation as time barred without going into merits. This has deprived him an opportunity to rebut the conclusion arrived at by the disciplinary authority. It is further stated that the name of the applicant was incorporated in the secret list of a minor penalty and has been continued till 8.10.1999. It is stated that before entering his name, no opportunity was afforded to the applicant.

5. ^{Several}
other valid contentions have been taken to impugn the orders.

6. On the other hand, respondents have denied the contentions of the applicant and have stated that the charge against the applicant was proved and a lenient view was taken to impose upon him a minor penalty of censure. As the appeal was not preferred within the time, the same was dismissed as barred by limitation.

7. In so far as bringing the name of the applicant in Secret List is concerned, it is stated that this has been done as per the Standing Order No.265. As he has been awarded a minor penalty, the same has been reviewed subsequently, and his name was removed from the Secret List w.e.f. 8.10.1999.

8. We have carefully considered the rival contentions of the parties and perused the material on record. In our considered view, without going into the other grounds assailed by applicant, we find that against the minor penalty of censure, applicant has preferred a detailed appeal taking number of contentions which have not been dealt with on merits and the appeal was rejected on account of limitation. Though the appellate authority is competent to condone the delay under Rule 25 of the Delhi Police (Discipline & Appeal) Rules, 1980 but the same has not been done. This, in our view, has prejudiced the applicant as his contentions have not been dealt with on merit by the disciplinary authority. Moreover, the minor penalty inflicted upon has an adverse affect as the name of the applicant was continued in the Secret List of persons having doubtful integrity.

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9. In the result, ends of justice would be duly met, if the present OA is partly allowed by setting-aside the appellate order and the matter is remanded back to the appellate authority, i.e., Commissioner of Police to pass a detailed and speaking order after dealing with the contentions of the applicant including the issue of his incorporation of his name in the Secret List of persons having doubtful integrity, within a period of two months from the date of receipt of a copy of this order. We order accordingly. No costs.

S. Raju
(Shanker Raju)
Member(J)

/rao/

(Govindan S. Tampi)
Member(A)