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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.789/2001

New Delhi this the 10th day of December, 2001.

HON'BLE MR. M.P. SINGH, MEMBER (ADMNV)
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Bahori Singh,
S/o Shri Kaley Singh,
R/o C-10/152,
Yamuna Vihar,
Delhi-110053.

-Applicant

(By Advocate Shri B.B. Raval)

-Versus-

1. Union of India through
the Secretary,
Government of India,
Ministry of Home Affairs,
North Block, New Delhi.

2. The Commissioner,
Delhi Police,
Police Headquarters,
Near I.T.O.,
New Delhi.

-Respondents

(By Advocate Shri Devesh Singh)

O R D E R (Oral)

By Mr. Shanker Raju, Member (J):

Heard the parties. The applicant, who was involved in a corruption case, has been proceeded against and simultaneously his name has been brought in the secret list of officers having doubtful integrity. The applicant was acquitted from the criminal charges on 8.1.92 and thereafter the respondents removed his name from the secret list with effect from the date of acquittal, i.e., 8.1.99. The applicant has sought quashing of this order and also prayed for removal of his name from the secret list from the date of its inception and also consideration for including his name in the list 'F' meant for promotion to the rank of Inspector (Executive) with all consequential benefits.

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2. The learned counsel for the applicant Shri B.B. Raval, placing reliance on several decisions of this court in OA-716/96 decided on 16.12.97, Kulwant Singh v. Commissioner of Police, as well as in WASI Kulwant v. Union of India, OA-827/88 dated 18.8.98 contended that once he has been exonerated and the respondents have decided not to proceed with any disciplinary proceedings and treated the period of suspension as spent on duty the name of the applicant should be removed from the secret list from the date of its inception on the basis that on his acquittal, no stigma is attached with respect to the criminal charges.

3. On the other hand, the learned counsel for the respondents strongly rebutted the contentions of the applicant on the ground that as the acquittal was on account of benefit of doubt his name has been removed from the list from the date of acquittal and not from the date of its inception. It is also stated that the applicant's case has been considered for admission to promotion list 'F' in the year 1994 but on account of his non-confirmation he has not been considered by the DPC.

4. We have carefully considered the rival contentions of the parties and perused the material on record. After acquittal from the criminal charges the respondents themselves treated the period of suspension i.e., from 5.2.1990 to 20.3.1991 as spent on duty for all intents and purposes treating the acquittal as on merits. The action of the respondents by removing the name from the secret list from the date of acquittal, i.e., 8.1.99 on the

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analogy that the applicant was given benefit of doubt, cannot be countenanced. On acquittal from the criminal charges if the respondents have decided not to proceed the applicant in departmental enquiry they cannot take a different view for the purpose of sustaining his name in the secret list. Having regard to the ratio cited by the learned counsel for the applicant where it has been held that if the respondents have not taken any disciplinary proceeding the name should be deleted from the date of its inception, treating that no stigma is attached to the criminal case on acquittal from the criminal charges. Apart from it, the benefit of doubt can be a subject matter for holding a disciplinary proceeding under Rule 12 of the Delhi Police (Punishment & Appeal) Rules, 1980 but it cannot be the basis for removing the name from the date of acquittal. The respondents have acted illegally and the name of the applicant should have been removed from the secret list of officers having doubtful integrity from the date of inception.

5. In this view of the matter and having regard to the reasons recorded above, the present OA is allowed. The orders passed by the respondents on 30.6.2000 are quashed and set aside. They are directed to remove the name of the applicant from the secret list with effect from the date it has been entered in the said list and thereafter to hold a review DPC for considering the case of the applicant for inclusion in list 'F' meant for promotion to the rank of Inspector (Executive) in accordance with the

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rules and instructions on the subject. It is stated by the learned counsel for the applicant that the applicant has already been promoted as Inspector (Executive) and his name has been admitted to promotion list 'F'. The respondents are directed to hold a review DPC to consider the claims^u of the applicant for inclusion in the list 'F' w.e.f. 12.8.94 and in the event he is found fit, all consequential benefits should be given to him. The respondents shall comply with these directions within a period of three months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)
Member(J)

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M.P. Singh
(M.P. Singh)
Member(A)