

(19)

Central Administrative Tribunal
Principal Bench

O.A. 1135/99

New Delhi this the 6th day of July, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Satwant Singh Bajwa,
Inspector under DCP,
Indira Gandhi International Airport,
New Delhi. ... Applicant.

(By Advocate Shri B.S. Mainee)

Versus

1. The Commissioner of Police
Delhi Police,
Police Headquarter,
New Delhi.
2. The Jt. Commissioner of Police
(Intelligence),
Delhi Police,
Police Headquarter,
New Delhi.
3. The Additional Commissioner of
Police (HQ), Delhi Police,
Police Headquarters,
New Delhi. ... Respondents.

(By Advocate Shri Ram Kanwar)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant has impugned the orders issued by the respondents dated 29.7.1998 and 4.12.1998 in terms of which the adverse remarks have been entered in his confidential report for the period from 1.4.1997 to 31.3.1998.

2. The adverse entries in the ACR of the applicant for the aforesaid period had been communicated to him by the reviewing authority in his letter dated 29.7.1998 (Annexure A-I). The applicant had submitted a representation against the adverse remarks on 15.9.1998 which has been rejected by the respondents vide their letter dated 4.12.1998, in which

they have stated that the reviewing officer has given adequate grounds for insertion of the adverse remarks in the ACR which has not been effectively rebutted by the applicant. Shri B.S. Maine, learned counsel for the applicant has submitted that the adverse remarks made by the reviewing authority were absolutely baseless, without any evidence, without any particulars and were totally bald remarks depriving the applicant of his right to prefer an effective appeal as per law. He has submitted that without giving the details to substantiate the adverse remarks and giving the applicant a notice or warning of his work and conduct previously, the same cannot be made or sustained in the eyes of law. He has also submitted that the adverse entry, for example, that he had remained in a drunken condition on many occasions tantamounts to misconduct for which the respondents could have taken necessary action for imposing a penalty. He has also very vehemently submitted that the adverse remarks made by the reviewing authority without indicating any events or any particulars in a vague and general manner which are unsubstantiated have, therefore, to be quashed and set aside along with the letter dated 4.12.1998 which, according to him, is also a non-speaking order. Learned counsel for the respondents has relied on a number of decisions, copy placed on record.

3. I have perused the reply filed by the respondents and heard Shri Ram Kanwar, learned counsel. In the reply, the respondents have stated, inter alia, that the reviewing officer, who had supervised the working of the applicant for whole of the period under consideration did not agree with the report of the reporting officer and

graded him as "Below average". They have given the reasons in the reply, for example, the applicant had been asked by the ACP to reach office at 9.30 A.M. everyday for interacting with his subordinates and later was asked to report in his office at 11 A.M. Barring a few days, they have stated that he never went to the office of PS Silampur and reached the Police Headquarters directly and that too after normal office timing which is 9.30 A.M., one example they have given is on 21.5.1997. According to them, they had given repeated instructions but he was not found present in the office between 5 P.M and 7 P.M on working days to meet persons who had problems in the early clearance of their passports. They have also stated that he was warned by the ACP for his lapse in being ~~at~~ⁱⁿ drunken state at about 9.30 P.M in front of his house where he was invited for a marriage reception ~~by~~^{of} the ACP on 12.3.1997. Learned counsel for the respondents had also referred to certain relevant documents in the official file. By Tribunal's order dated 29.6.2000, they were directed to submit the relevant documents on the basis of which the counter reply had been filed on 10.9.1999 bringing out the above facts. This was in the context that the main contention of Shri B.S. Maine, learned counsel was that no warning, no details or particulars of the working or conduct of the applicant had been brought to his notice to warrant the adverse remarks given in the impugned letter by the reviewing authority on 29.7.1998. The learned counsel for the respondents has submitted a true copy of the memo dated 23.5.1997 which had been issued to the applicant, copy placed on record. Shri Ram Kanwar, learned counsel has submitted that in the circumstances of the case the adverse remarks recorded by the reviewing officer are fully supported by the evidence on

record, as indicated by them in the reply and he had also supervised the working of the applicant for the period in question. In the circumstances, he has prayed that the O.A. may be dismissed.

4. Shri B.S. Maine, learned counsel has been heard in reply and I have also seen the rejoinder.

5. From a perusal of the memo dated 23.5.1997 issued by the respondents which deals with the action of the applicant during the relevant period in which the adverse remarks had been recorded from 1.4.1997 to 31.3.1998, it is seen that they have referred to repeated advice, instructions and directions given to the applicant from time to time. The details given in the reply of the conduct and working of the applicant in office are substantially reflected in this memo and it is stated that the applicant has once again been directed to mend his ways and take initiative and interest in the Government working. Therefore, in the circumstances of the case, the contentions of Shri B.S. Maine, learned counsel for the applicant, that the reviewing authority has given the adverse remarks in the ACR for the period from 1.4.1997 to 31.5.1998, without giving any particulars to substantiate the remarks or giving him any warning, instructions or directions and so on are baseless. The memo dated 23.5.1997 has been issued by the ACP, Trans Yamuna. After this memo had been issued to the applicant on 23.5.1997, the applicant had sufficient time to mend his ways and take more interest in the Government work. Taking into account the facts and circumstances of the case, therefore, the contentions of the learned counsel for the applicant that the adverse remarks

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have been given without any notice, warning, instructions and so on are rejected. In the circumstances of the case, the cases relied upon by the applicant that the adverse remarks in the ACR given by the reviewing authority are vague, unsupported by evidence or incidents whose particulars have not been given or that they were not objective and the other submissions on the same lines cannot be accepted, as the applicant was clearly informed of his various lapses in discharge of his duties as well as his conduct which has not found favour with the respondents and told to improve himself. The judgement of the Supreme Court in Union of India Vs. E.G. Nambudiri (AIR 1991 SC 1216) is applicable to the facts of the present case. There is no illegality in the action taken by the respondents in passing the impugned orders dated 29.7.1998 and 4.12.1998 justifying any interference in the matter.

6. In the result, for the reasons given above, O.A. fails and is dismissed. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'