

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1178/99

New Delhi, this 24th day of August, 2000

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Smt. Shanta Shastry, Member(A)

Puninder Singh
B-30, PS New Friends Colony
New Delhi .. Applicant
(By Shri Shyam Babu, Advocate)

versus

Govt. of NCAT of Delhi, through

1. Chief Secretary
5, Shamnath Marg, Delhi
2. Commissioner of Police
Police Hqrs., IP Estate
New Delhi .. Respondents

(By Smt. Neelam Singh, Advocate)

ORDER

Smt. Shanta Shastry

The applicant is seeking to get his name removed from the list of persons of doubtful integrity (DI list, for short) with effect from 8.6.95, i.e. the date from which his name was brought on that list on the ground of initiation of departmental enquiry (DE, for short) against him.

2. It is the case of the applicant that he has been exonerated in the DE by order dated 9.1.98 and therefore his name should be removed from the said list. He further submitted that initial DE was conducted against the applicant as well as one Shri H.S.Gill. Both were exonerated. In the case of Shri Gill his name was removed from the DI list w.e.f. 8.6.98 vide order dated 17.8.98. However in spite of making representation immediately after being exonerated in the DE vide order dated 9.1.98, applicant's name has not been removed from

the list. This is discriminatory when both he and Shri Gill were proceeded against departmentally on the same allegation. Applicant also contended that the superior officer had recommended his case in September, 1998 but his name continues to be in the DI list. (14)

3. It is the case of the respondents in the reply that it is a fact that the DE against the applicant as well as Shri Gill was dropped vide order dated 9.1.98 of the ACP. The order says that DE has been filed, action if any would be taken after the case in FRI 147/95 u/s 384/511 IPC, PS Kotla Mubarakpur is finalised by the court and based on the court's view. The said criminal case is still pending in the court of Shri V.K.Sharma, MM Patiala House. The representation of the applicant dated 5.3.98 was considered and examined at length. A review report was called as per Para 8(3) of the standing order No.265 of 96. The review report of the Addl. DCP was received on 28.10.98. After scrutiny of the review report in respect of Inspector Gill, nothing adverse came to the notice, hence his name was removed from DI list w.e.f. 8.6.98. In the case of the applicant however it was observed that he was involved in another DE of misconduct and the controlling officer did not recommend his name for removal from the list. Therefore it was decided to continue his name on DI list with effect from 8.6.98 for a further period of 3 years or till finalisation of the DE. There are two adverse entries shown in his review report. In view of this, applicant's further representation dated 16.4.98 was rejected on 20.8.98.

Learned counsel for the applicant has contended that applicant's name was placed in DI list for the DE initiated against him on 9.6.95. Since that DE was dropped his name cannot be continued in the DI list on that ground after the case in kalandra under section 91/97 of the Delhi Police Act has already been closed by the Metropolitan Magistrate, Patiala House Courts on 27.7.99. Applicant has also filed a copy of order at Annexure A-1 of his rejoinder. The case is now pending in the court of Shri V.K.Sharma, MM, Patiala House Courts. According to the applicant, the case has almost become infructuous as the complainant in the case Shri Ravinder Kumar Saraswat died on 3.1.99. In another DE dated 20.12.95 the applicant was reverted from ASI to the rank of HC for 2 years on 29.5.98. But the seniority of the applicant has been restored to his original position vide order dated 1.4.99. The said DE has not affected his seniority and other service benefits. The name of the applicant was not brought in DI list on the basis of this DE. The learned counsel contended that no intimation or communication was made by any order to show that his name was placed on the DI list on account of the DE dated 20.10.95. He had also been given no opportunity of hearing for extending the continuation of his name in the said list. The applicant was awarded censure by order dated 18.11.98 in the other DE dated 21.8.91. Therefore, the stand that the DE is still pending against him is not tenable. In view of this position, his name deserves to be removed from the DI list.

5. We have heard the learned counsel for the parties. It is seen clearly that applicant's name has been continued in the DI list because of adverse entries. The standing order only permits a review, it does not necessarily mean removal of name of the person from the list. Respondents did carry out the review but because of the adverse entries they decided to continue the name of the applicant in the list. The applicant has brought to our notice that the DE pending against him in the court of MM, Patiala House has become infructuous. All the same it has not been dismissed nor has the applicant been cleared in that by the court. The DE can therefore be said to be still pending. Even if we assume that applicant's name could not have been in the list after being exonerated in the DE under section 91/97, in view of the review report, we are of the view that the action of the respondents is in accordance with the standing order and is justified and we would not like to interfere with the same. At the same time, the respondents should however have informed the applicant about the decision to continue his name in the DI list. If the pending DEs have been disposed of as stated in the rejoinder, his case for removal of his name from the DI list needs to be reviewed. We direct the respondents to review the case of the applicant as per rules and the standing orders and take a suitable decision within a period of three months.

The OA is disposed off accordingly. No costs.

Shanta *S*

(Smt. Shanta Shastray)
Member(A)

Kuldeep *S*

(Kuldeep Singh)
Member(J)

/gtv/