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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1243/99

New Delhi this the 12th day of November, 1999

Hon'ble Shri S.R. Adige, Vice Chairman(A)
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

HC Harbir Singh
S/O Late Sh. Kabool Singh
R/O 7th Bn. Barrack No. 4,
PTS Complex, Malviya Nagar,
New Delhi.

..Applicant

(By Advocate Mrs. Meera Chhibber)

Versus

1. Govt. of NCT of Delhi
through Commissioner of Police,
Police Headquarter, I.P. Estate,
New Delhi.
2. Addl. Commissioner of Police (AP)
New Police Lines,
Kingsway Camp, Delhi.
3. Dy. Commissioner of Police (Vigilance),
Police Headquarters, MSO Building,
I.P. Estate, New Delhi.

..Respondents

(By Advocate Sh. Jog Singh)

O R D E R (ORAL)

(Hon'ble Shri S.R. Adige, Vice Chairman (A))

Applicant impugns the respondents Memo. dated 9.2.99 (Annexure P-III) and seeks a direction to respondents to remove his name from secret list w.e.f. the initial stage and to place his case before review DPC for consideration for promotion as ASI.

2. We have heard applicant's counsel Mrs. Chhibber and respondents counsel, Shri Jog Singh.

3. It is not denied that applicant joined Delhi Police as a constable in 1972 and was promoted as Head Constable in 1986, and in 1990 he was confirmed w.e.f. 9.5.89. It ^{is} also not denied that the applicant has earned 60-65 commendation certificates during his period of service, and has not been awarded any major punishment.

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4. A departmental inquiry was, however, instituted against the applicant on 30.6.97, on the allegations that while posted at B.S. Ambedkar Nagar, he was entrusted with the investigation of case FIR No.167/96 u/s 61 Excise Act, in which the accused was arrested and challan was filed in the Court after the expiry of mandatory time limit of one year within which the case was required to be put up in the Court. The charge sheet in this case was also filed by the I.O. against the provisions of Section 75 of Punjab Excise Act, 1914, as a result of which the accused was discharged as no cognisance could be taken after one year from the date of commission of offence. The charge against applicant was that he had not discharged his official duties with responsibility and sincerity.

5. After completion of the departmental inquiry, the disciplinary authority passed orders on 20.8.98(Ann.P IX) awarding applicant the penalty of censure, which it was felt, would meet the ends of justice.

6. Meanwhile by order dated 15.1.98(Ann P II) applicant's name was brought on to the secret list of doubtful integrity for a period of five years, and he was given an opportunity to represent against the same. Applicant submitted his representation on 10.9.98(Ann.P.X) praying for removal of his name from the secret list. However, Respondents vide their impugned Memo. dated 9.2.99(Ann.P.III), without discussing any of the grounds taken by the applicant in the aforesaid representation have informed him that his name has been continued on the secret list of doubtful integrity which will be reviewed on 30.6.2000. Applicant subsequently submitted a detailed representation on 5.3.99(Ann.P.XI), but there are no materials to indicate that the aforesaid representation has been disposed of by the respondents as yet.

7. Meanwhile respondents had convened a DPC for making promotion to the rank of ASI of Police w.e.f. 12.5.99. Admittedly,

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applicant's name was considered, but the DPC found him unfit due to the existence of his name on the secret list.

8. By our interim order dated 20.9.99, we had directed respondents to depute the applicant for the intermediate school training course alongwith his juniors in the current batch and we are informed that the course is ^{to} commenced on 14.11.1999.

9. Meanwhile respondents have presses MA 2185/99 seeking vacation of the aforesaid interim order.

10. In view of the fact that the respondents had themselves allowed the applicant to represent against their order placing his name on the secret list, whatever grounds were taken by him in his representation dated 10.8.98 should have been discussed by the respondents before issuing impugned order dated 9.2.99. Furthermore, as pointed out above, applicant has filed subsequently a detailed representation dated 5.3.99 taking various additional grounds to which admittedly no order has yet been passed by the respondents.

11. In the result, we dispose of this OA with a direction to respondents to consider the grounds taken by the applicant in his representations dated 10.8.98 and 5.3.99 for deletion his name from the secret list of persons on doubtful integrity, after giving him a reasonable hearing of being heard, ^{in person} and pass a detailed and reasoned order in accordance with rules and instructions preferably within one month from the date of receipt of a copy of this order. In the event applicant's name is deleted from the secret list, respondents should convene a review DPC immediately thereafter to consider applicant's case for promotion as ASI w.e.f. the date his immediate junior was so promoted, with consequential benefits admissible in accordance with rules, instructions and judicial pronouncements.

12. Meanwhile as the intermediate school training course is said to be commencing on 14.11.99, we reiterate our interim order dated 29.9.99, that respondents should depute applicant for the

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said course, at his own cost at present and in the event he is found suitable for promotion as ASI on the basis of the review DPC's recommendations, the cost incurred by him for the intermediate school training course shall be reimbursed by respondents/him in accordance with rules and instructions.

13. OA No.1243/99 and MA No.2185/99 are disposed of in terms of paragraphs 11 and 12 above. No costs.

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

S.R. Adige
(S.R. Adige)
Vice Chairman(A)

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