

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2072 of 1999

New Delhi, this the 4<sup>th</sup> day of May, 2001

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

SI (Ex.) Sanwal Ram Meena  
No. D-3222  
Through SHO Police Station  
Lodhi Colony,  
New Delhi. ....Applicant

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By Advocate Ms. Rachna Tiwari, proxy  
counsel for Ms. Jasvinder Kaur, Counsel.

Versus

1. Commissioner of Police,  
Police Headquarters,  
I.P. Estate,  
New Delhi-110 002.
2. Additional Commissioner of Police,  
Southern Range,  
Delhi. ....Respondents

By Advocate Sh. Rajinder Pandita.

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (Judl)

In this OA the applicant has sought the relief regarding expunging of his adverse remarks made in the ACR for the period 1.4.95 to 31.3.96 which was communicated to the applicant on 13.10.1998.

2. Facts in brief are that in October, 1995 the applicant was posted as Sub Inspector at Police Station, Lodhi Colony. While he was posted there the applicant had apprehended one Raghu Raj who was illegally carrying liquor in an ambassador car. Raghu Raj was arrested and an FIR was lodged. Later on an enquiry was conducted at the instance of the ACP, (who is also the reporting authority of the

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applicant) directed the SHO as to why the owner of the car Shri Basu Dev was not arrested. So some allegations were levelled against the applicant that there was a deal between the applicant and the owner of the car whereby the applicant had returned some illegally recovered liquor to said Shri Basu and also retained some liquor with him illegally and the said liquor was distributed among the staff of the Police Station. However, a Vigilane Enquiry was conducted by the Vigilance Branch but nobody was found guilty for the said allegations.

3. It is also pleaded that the ACP, who is the reporting authority of the applicant, had fabricated the entire story and had recorded adverse remarks in the ACR of the applicant.

4. It is further stated that the applicant was not issued any show cause notice nor asked for any explanation but the ACP had recorded the adverse remarks as stated in Annexure-B.

5. The applicant is stated to have made a representation before the Joint Commissioner of Police for expunging of the remakrs but the said representation was rejected without assigning any reason. It is also stated that the appellate authority as well as the revisional authority had not applied their mind while considering the

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representation of the applicant for expunging of the adverse remarks.

6. It is further stated that the ACR had not been recorded keeping in view the objectivity of the confidential reports. It is also stated that the ACR had not been recorded in time as the ACR for the period in dispute was communicated 2 years after the alleged period whereas the instructions on the subject require that the ACR should be recorded within one month from the date of receipt of the proforma and should have been communicated as early as possible.

7. Respondents are contesting the OA and have submitted that from the date of incident when the FIR was lodged dated 4.10.1995, it is quite manifest that the applicant who was the investigating officer of the said case had not registered the case and had kept some liquor with him and for which purpose adverse remarks were communicated to him. It is also pleaded that the representation filed by the applicant had been considered by the Joint Commissioner of Police (SR) and the same had been rejected properly.

8. As regards delay in recording the ACR is concerned, it is submitted that the ACR was recorded

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immediately after the proforma duly completed was received by the ACP and there was no delay on the part of the officer.

9. It is further submitted that the adverse remarks in the ACR for the period 1996-97 had been recorded by the reporting officer on the basis of his overall performance and the applicant's involvement in the criminal case was factual. Merely that he was not placed under suspension for his involvement in a criminal case, does not absolve him of the allegations levelled against him.

10. In the rejoinder the applicant has submitted that as regards the submission of the proforma of ACR by the applicant is concerned, it is submitted that there was no delay on the part of the applicant but it is the reporting officer who had taken time to record the ACR.

11. I have heard the learned counsel for the parties and have gone through the records of the case.

12. As regards the importance of confidential report is concerned it is a well settled law that writing of ACRs is an important function of the reporting officer as well as of the reviewing authority. On the basis of the confidential

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character roll, the future prospects of the career of the employee depends. Due care has to be taken while writing the ACRs.

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13. However, in this case as submitted by the respondents that applicant was advised on many occasions to mend his ways but he continued to work in the same manner and did not reform himself as such there was no need to call for an explanation from the applicant as the reporting officer has to go into the overall objective assessment of the concerned officer. The remarks recorded in this case as has been communicated to the applicant vide Annexure-B show that only against the column of 'honesty' the reporting officer has recorded 'cannot be vouched for' and as regards his working is concerned it is found to be 'average one'. Taking this remark with the honesty, cannot be vouched for. The applicant made a representation which was considered at the level of Joint Commissioner of Police and the same had been rejected. The counsel for the applicant to challenge the same has taken two main grounds. One is that the ACR should have been recorded within a one month from the date of expiry of the reporting period and as the same has not been done, so, the adverse remarks are liable to be expunged. In this connection I may refer to the Swamy's Establishment and Administration Volume 2000 on page 778 paragraph 9 which mentions that the annual report should be recorded within one month of the expiry of the report

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period and delay in this regard on the part of the reporting officer should be adversely commented upon and if the the officer to be reported upon delays submission of self-appraisal, this should be adversely commented upon by the reporting officer. Though the remarks which have been communicated in the year 1998 pertain to the period 1995-96 the applicant had taken a plea that the same had not been reported in time but the respondents in their reply have submitted that the self appraisal report had been submitted late by the applicant. Thus the respondents submit that there was no delay on the part of the reporting officer though in the rejoinder the applicant has submitted that the respondents had not given any satisfactory reply in writing the ACR of the applicant, but at the same time the applicant has not given the date as to when he has submitted his self appraisal form. Thus in a way it can be safely concluded that the delay, if any was on the part of the applicant himself and not upon the reporting officer.

14. The applicant has taken another ground that show cause notice was not given before recording the ACRs whereas the respondents in their reply have submitted that the applicant was periodically advised on many occasions to mend his ways but he did not do so there was no need to give any notice before recording his ACR.

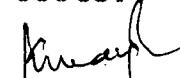
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15. As regards the principle to be observed by reporting officer in writing reports in ACR is concerned, the DOP&T in their guidelines have stated that the remarks like "doubtful character", "complaints received regarding illegal grafitifacation" are not permissible. Entries should be based on established facts and not on mere suspicion and in this case the adverse remarks have been recorded on the basis of an FIR which was under investigation by the applicant himself and moreover applicant himself admits that he has been investigating a case of recovery of illegal liquor and facts with regard to that particular case had been considered by the reporting officer as well as by the reviewing authority and only thereafter the remarks had been communicated to the applicant and at the time of recording the ACR, vigilance enquiry was pending against the applicant so this fact has been considered, as such I find that there is no need to interfere with the same.

16. In view of the above, nothing survives in the OA which is accordingly dismissed. No costs.

  
(Kuldip Singh)  
Member (J)

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