

(2)

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 2536/1999

New Delhi this the 29th day of November, 1999.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

Bhom Singh S/O Nathu Lal,
R/O B-49, Police Station,
Saraswati Vihar,
New Delhi-110032.

... Applicant

(By Shri B. B. Raval, Advocate)

-Versus-

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

2. The Commissioner of Police,
Delhi Police,
Police Hqrs., Near ITO,
New Delhi-110002.

3. Shri B. S. Brar,
Addl. Commissioner of Police,
Delhi Police, Police Hqrs.,
New Delhi-110002. ... Respondents

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

A show cause notice issued to the applicant on 3rd November, 1999 at Annexure-A to the O.A. is impugned in the present O.A.

2. The applicant had been involved in an FIR dated 22nd November, 1990 under Section 498-A of the Indian Penal Code. He was arrested on 16th April, 1991 and released on bail on the same day. The applicant, however, did not inform the department about his involvement/arrest in the said criminal case. In view of the concealment of the aforesaid facts, the

A

applicant was declared to have completed the probation period successfully with effect from 28th December, 1990. Further, he was admitted to the promotion list E-I (Ex.) w.e.f. 16th January, 1997 and on completion of training in upper school course his name was admitted to promotion list E-II (Ex.) w.e.f. 16th September, 1997. As far as the aforesaid charge is concerned, the applicant was proceeded against in a disciplinary proceeding where the enquiry officer has given his findings in regard to the guilt of the applicant. The applicant has submitted his representation and proceedings are pending before the disciplinary authority.

3. As far as the impugned show cause notice is concerned, it is pointed out that, had the applicant informed the department about his involvement/arrest in the aforesaid criminal case, the decision regarding successful completion of his probation period would have gone in a sealed cover and subsequent decision regarding admission of his name to promotion lists as well as his promotion to the rank of Sub Inspector would not have been taken. By the show cause notice, the applicant is called upon to show cause why his completion of probation period as also the subsequent promotion to the post of Sub-Inspector should not be cancelled. In our view, this is not a case of double jeopardy. As far as the disciplinary proceedings are concerned, the same relate to the concealment of the fact of being involved in the criminal offence and of his having been arrested. As far as the ^{impugned} show cause

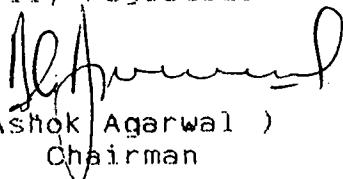
(9)

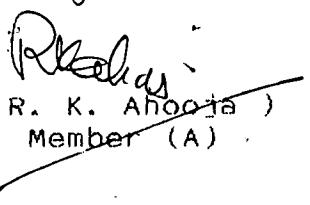
notice is concerned, the same seeks to relegate the applicant back to his position where he would have been had the fact of his prosecution and arrest been brought to the notice of the department in 1990. In that case the applicant would not have been considered for his having completed the probation period. Rule 18(iv) of the Delhi Police (Promotion and Confirmation) Rules, 1980 provides as follows :

"(iv) No member of subordinate rank, who is under suspension or facing departmental/criminal proceeding shall be eligible for confirmation. Their cases shall be decided by "Competent Authority" concerned after such proceedings are over. A Departmental enquiry shall be deemed to have been initiated after the summary of allegations has been served."

4. Aforesaid rule, therefore, makes it clear that applicant's case for completion of probation period could not have been considered by the departmental promotion committee till such time the departmental enquiry initiated against him as also the criminal proceedings are completed.

5. In the circumstances, we do not find that an exception can justifiably be taken to the impugned show cause notice. Present O.A., in the circumstances, we find, is devoid of merit. The same is accordingly summarily rejected.


(Ashok Agarwal)
Chairman


(R. K. Ahoota)
Member (A)

/as/