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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.407/1999

New Delhi, this 17th day of November, 1999

Hon'ble Shri S.P. Biswas, Member(A)

Bhopal Singh
C-6/174, Yamuna Vihar
Delhi-110053

Applicant

(By Shri Shyam Babu, Advocate)

versus

1. Govt. of NCT of Delhi
through Chief Secretary
5, Sham Nath Marg
Delhi

2. Joint Commissioner of Police (Operation)
Police Hqrs., New Delhi

3. Addl. Dy. Commissioner of Police
Police Control Room
Sarai Rohilla, Delhi

Respondents

(By Shri Amresh Mathur, Advocate)

ORDER(oral)

Applicant is aggrieved by the orders dated 22.7.98, 28.12.98 and 14.10.98 respectively by which remarks in his ACR for 1997-98 indicate his inefficient working (lack of supervision) as well as representation against the remarks has been rejected. Applicant is also aggrieved, in particular, by details in Annexure A-2 communication dated 22.7.98 by which the reviewing officer has passed the following remarks in respect of the applicant's working for the period from 1.4.97 to 31.3.98:

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"I do not agree with the reporting officer. There were verbal as well as written complaints against his behaviour and on enquiry, it was found that these complaints were not without substance. He was verbally directed to improve in his work and conduct but he failed to improve. His supervision over the staff was found lax when checked by the senior officer. (Grading - below average)."

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2. The reviewing officer has mentioned that the applicant has failed to improve his working and his supervision over the functioning of staff under his control was found laxing.

3. Pursuant to the aforesaid adverse remarks, a show cause notice was issued to applicant on 16.7.98 on the ground that the applicant failed to have exercised proper control over his staff and gave wrong statements in support of their absence. After considering applicant's reply, he was given written warning to be more careful in future vide order dated 8.9.98. The Addl. Dy. Commissioner of Police, however, vide his order dated 6.4.99 has concluded that "there is no concrete evidence to award him any punishment. Hence I am inclined to vacate the notice".

4. The issue that arises for determination is the legality of respondents' action in retaining the adverse remarks in the ACR pertaining to the aforesaid period in the background of Addl. CP's aforesaid order dated 6.4.99. Determination on this issue need not detain us any longer in the light of the judicial pronouncement of the apex court in the case of Chabungbam Ibohal Singh Vs. UOI & Ors. 1995 SCC (L&S) 768. That was the case where adverse remarks were passed touching upon the allegation of embezzlement by the applicant therein during the pendency of the departmental enquiry. The charges were dropped pursuant to the enquiry. The apex court held that in the context of such a situation, relevance and retention of such adverse remarks do not exist any longer. We find that the ratio arrived by the

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apex court in the aforementioned case applies squarely in the facts and circumstances of the present case.


5. In the result, the OA is allowed with the following directions:

(i) The adverse remarks passed by respondents vide orders dated 22.7.98, 14.10.98 and 28.12.98 shall stand set aside;

(ii) The remarks as well as the grading given by the reporting officer for the period from 1.4.97 to 31.3.98 shall remain.

(iii) The applicant shall also be eligible for consequential benefits.

6. The OA is disposed of as aforesaid. No costs.


(S.P. Biswas)
Member (A)

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