

(16)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
New Delhi

O.A. No. 848/1999

New Delhi, this 12th day of the December, 2000

HON'BLE MR. V. K. MAJOTRA, MEMBER(A)  
HON'BLE MR. SHANKER RAJU, MEMBER(J)

Harjinder Singh Gill (D/1375)  
S/o Sh. Jawahar Singh  
R/o I-23, Lajpat Nagar-III  
New Delhi.

... Applicant

(By Advocate : Shri Shyam Babu)

Versus

1. Govt. of NCT Delhi through its Chief Secretary, 5, Sham Nath Marg, Delhi.	4. Dy. Commissioner of Police (Vigilance) Police Headquarters, I.P. Estate, New Delhi.
2. Commissioner of Police Delhi, Police Headquarters, I.P. Estate, New Delhi.	
3. Senior Addl. Commissioner of Police (Intelligence) Police Headquarters, I.P. Estate, New Delhi.	... Respondents

(By Advocate : Mrs. Neelam Singh)

ORDER (oral)

HON'BLE MR. SHANKER RAJU :

In the present OA, the applicant has challenged deferment of his confirmation and also not removing, the name from the secret list even after his exoneration from the departmental enquiry from its inception.

2. The brief facts of the case are that the applicant was appointed as S.I. (Executive) in Delhi Police on 15.6.1981 and subsequently, promoted as Inspector (Executive) on 18.8.1994. A departmental enquiry was

(12)

ordered against the applicant on 08.06.1995 which continued till 09.01.1998, when the disciplinary authority as per the findings of the Enquiry Officer and on the advice of the legal advisor passed an order dropping the enquiry. Any future action to be taken in the matter of departmental enquiry would be after the finalisation of the Court case where the applicant has allegedly implicated the complainant. With the initiation of the departmental enquiry, the name of the applicant was brought in secret list of officers having doubtful integrity w.e.f. 08.06.1995. As per Rule 5 of the Delhi Police (Promotion and Confirmation Rules) 1980, the juniors of the applicant have been confirmed in the rank of Inspector (Executive) w.e.f. 18.8.1996, i.e. after completion of two years of probation period. Subsequently, the name of the applicant was removed from the secret list w.e.f. 08.06.1998 and thereafter, the applicant was confirmed in the rank of Inspector (Executive) w.e.f. 18.08.1997 after extending the probation period for a period of one year.

3. Admittedly on account of the fact the applicant's name being existing in the secret list as well as on account of pendency of the departmental enquiry, the applicant made a representation to the respondents for removing his name from the secret list from the date of its inception i.e. 08.06.1995 and also seeking his confirmation from the date when his batch mates were confirmed i.e. 18.08.1996. On the representation of the applicant one of the reliefs was partly given to him by the respondents i.e. removing his name from the

(S)

secret list w.e.f. 08.06.1998 i.e. after expiry of three years from the date when his name was entered in the secret list i.e. w.e.f. 08.06.1995.

4. The contention of the learned counsel for the applicant is that after exoneration from the departmental enquiry as admittedly an order was passed by the disciplinary authority on 09.01.1998 dropping the departmental enquiry against the applicant, his name which had been entered in the secret list of officials having doubtful integrity should have been removed from its inception i.e., w.e.f. 08.06.1995. The learned counsel for the applicant has drawn our attention to judgement of this Tribunal dated 18.08.1998 in OA 827/1998 where it has been held is as under:-

"In view of the above, we are convinced that the OA deserves to be allowed. We accordingly allow this OA and not aside the order dated 28.10.1997 by which the applicant's name has been removed from the secret list only w.e.f. 6.6.1997. We further direct that the applicant's name shall be deemed to have been removed from the secret list from the date of its inception i.e. 6.6.1994. It shall be open to the applicant to make necessary representation claiming consequential benefits flowing from this order."

In this case also the name of the applicant was removed from the secret list from the date of his exoneration from the departmental charges. But the Tribunal was pleased to direct the respondents to remove the name from the date of his inception. We are in conformity with the judgement delivered by the Tribunal and held that the action of the respondents by removing the name of the applicant from the secret list of officials having doubtful integrity w.e.f. 08.06.1998 and not

pm

from 08.06.1995 is not legally sustainable. As a result the applicant's name would stand removed from the secret list of officials having doubtful integrity w.e.f. 08.06.1995.

5. As far as the extension of probation period and deferment of confirmation of the applicant to the rank of Inspector (Executive) is concerned. Admittedly the respondents in their counter affidavit in para 4.5 clearly stated that the name of the applicant was considered for confirmation w.e.f. 18.08.1996, but as his name figured in the secret list of officials having doubtful integrity and he was facing a departmental enquiry, the period of probation has been extended for a period of one year and the applicant was confirmed in the rank of Inspector (Executive) w.e.f. 18.08.1997. From the records it is shown that the departmental enquiry against the applicant has been filed by the disciplinary authority on 09.01.1998 which has the effect of deletion of the name of the applicant from the secret list of officials having doubtful integrity. No stigma could be attached to the applicant with regard to the departmental enquiry by virtue of action of the respondents by dropping the enquiry and exonerating the applicant. It is true that the order of departmental enquiry has been further subjected to the outcome of the criminal cases. Later on the applicant in his rejoinder annexed the death certificate of Ravinder Kumar and made an averment that the Kalendra under Section 92/93 of Delhi Police Act, 1997 has been dropped on 27.07.1999 by the Metropolitan Magistrate, Delhi. This averment of the applicant has not been controverted the respondents.

6

Applicants counsel has also annexed death certificate of the complainant Ravinder Kumar. We feel that by this subsequent event, the criminal proceedings for all practical purposes have come to an end. Respondents even after this, have not resumed the enquiry.

6. In view of culmination of the criminal case pending against the applicant and the fact that the extension of probation period has been done only on the basis of departmental enquiry, we declare the action of the respondents by extending the probation period of the applicant for a period of one year from 18.08.1996 to 18.08.1997 as illegal and hold that the applicant would be confirmed in the rank of Inspector (Executive) w.e.f. 18.08.1996 i.e. expiry of two years period of probation. In the result, the OA is allowed respondents are directed to remove the name of the applicant from secret list of officials having doubtful integrity w.e.f. 08.06.1995. We further direct the respondents to confirm the applicant in the rank of Inspector (Executive) w.e.f. 18.08.1996. The applicant would also be entitled to all the consequential benefits admissible to him in accordance with the rules. No costs.

S. Raju

(SHANKER RAJU)  
MEMBER(J)

V.K. Majortha

(V.K. MAJORTA)  
MEMBER(A)

/ravi/