

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 1710/98

New Delhi, this the 13th day of May, 1999

HON'BLE SHRI S.R.ADIGE, VICE-CHAIRMAN(A)
HON'BLE SHRI T.N. BHAT, MEMBER (J)

Shri Hawa Singh
s/o Late Sh. Bhale Ram
R/o C-1 (SHO Flat)
Police Station Patel Nagar,
New Delhi.

....Applicant

(By Advocate: Shri M.K.Gupta).

Vs.

1. Commissioner of Police,
Police Headquarters,
I.P.Estate,
New Delhi.

2. Dy. Commissioner of Police,
3rd Bn. DAP, Vikaspuri,
New Delhi.

3. Lt. Governor,
Govt. of N.C.T. of Delhi,
Raj Niwas,
Delhi. Respondents

(By Advocate: Shri Deepak Bhardwaj proxy for
Shri Arun Bhardwaj)

JUDGMENT

By Hon'ble Shri T.N.Bhat, Member (J)

The applicant, working as an Inspector in Delhi Police, challenges in this O.A. the validity of the Memorandum dated 19.12.1996 conveyed to him by respondent no. 2 stating that the applicant's name has been included in the secret list of persons of doubtful integrity w.e.f. 25.9.1996 for a period of five years. The O.A. is further directed against the standing order No. 265 issued by respondent no. 1 on 19.4.1996 as amended on

May 13.5.99

20.3.1998 which provides for bringing the name of police personnel in the secret list of persons of doubtful integrity.

2. According to the applicant after coming into force of the Delhi Police Act the aforesaid standing order could not have been issued which, in effect, prescribes penalties in the shape of withholding the promotion etc. from a person who has been brought on the list of persons of doubtful integrity. That apart, the applicant also contends that even according to the aforesaid standing order the applicant's name could not have been brought on the secret list.

3. It is not disputed that the impugned order is based upon an allegation that the applicant along with an ASI had taken Rs. 56,000/- as bribe from one Shri Lavinder Singh to evict a tenant from his premises. However, it was at the same time further alleged that the applicant restored the tenant back in possession and threatened the said Lavinder Singh with registered of a case against him.

4. According to the impugned Memorandum the applicant has been informed that inclusion of his name in the secret list of persons of doubtful integrity will affect the applicant's promotion, confirmation, deputation, extension, re-employment and crossing of Efficiency Bar etc.



5. It is further contended by the applicant that according to the Section 21 of the Delhi Police Act a penalty of including the name of the delinquent official in the secret list of persons of doubtful integrity has not been mentioned as one of the penalties which can be imposed upon the delinquent official.

6. The respondents have resisted the O.A. on the ground that the impugned order has been passed under the Delhi Police (Appointment & Promotion) Rules and not under the Delhi Police (Punishment & Appeal) Rules and that, therefore, Section 21 of the Delhi Police Act would have no bearing in this case. It is reiterated in the counter reply that the allegation against the applicant and ASI Hari Krishan was that while working in Police Station Chitranjan Park they had taken an amount of Rs. 56,000/- as bribe from Sh. Lavinder Singh to evict a tenant from his premises situated in Greater Kailash Part-II, New Delhi. It is further averred that departmental enquiries had been initiated against both the officials which have been finalized and the punishment of forfeiture of one year's approved service temporarily for a period of one year with immediate effect has been awarded to the applicant.

7. The applicant has filed rejoinder to the counter filed by the respondents.

8. We have heard the learned counsel for the parties at length.

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9. Although the learned counsel for the applicant has argued at length on the question of validity of the standing order No. 265 we really do not consider it necessary to give any finding on this question, as the OA is bound to succeed on another point. According to Standing Order No. 265 itself, the name of the official can be brought on the secret list only in cases enumerated in para 6. The grounds on the basis of which this can be done are as follows:-

- (i) When the official is convicted in a court of law on the charge of lack of integrity;
- (ii) The official is awarded a major penalty departmentally on the charge of lack of integrity or on the charge of dereliction of duty or for misuse of power and abuse of official position.
- (iii) The official against whom proceedings for major penalty are in progress.
- (iv) Persons who are prosecuted but are acquitted on technical grounds; and
- (v) Persons who are awarded minor penalty on the charge of lack of integrity involving moral turpitude.

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10. So far as the applicant is concerned there was no departmental enquiry pending against him when the impugned order was passed, as it is not disputed that the chargesheet was served upon him after the passing of the aforesaid order. The impugned Memorandum was issued on 19.12.1996 while he was served with a summary of allegations on 13.1.1997 and a charge memo on 19.9.1997. In this regard it would be further interesting to note that in the Memo of Charges it is alleged against the applicant that he reached the place of the incident late causing unnecessary delay so as to give some advantage to the said Shri Lavinder Singh. There is not a word in the chargesheet that the applicant had demanded or received an amount of Rs. 56,000/- from the said Shri Lavinder Singh. No explanation is forthcoming from the respondents as to what were the reasons for not mentioning the alleged act of taking Rs. 56,000/- as illegal gratification in the chargesheet.

11. We further find that when the applicant made a request for furnishing to him a copy of the complaint that had been lodged against him and also the necessary details so as to enable him to give a reply to the Memo, the respondents refused to do so. The impugned order suffers from the vice of arbitrariness as also contrvention of the principles of natural justice.

12. We may further state that according to the respondents the departmental enquiry against the applicant was finalized only on 11.3.1998 in which punishment has been awarded. Even if we assume that such a punishment could be a ground for placing the applicant's name on a

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secret list, in the absence of any allegation in the departmental enquiry about the acceptance of illegal gratification the charge could not be one of lack of integrity or moral turpitude. As already mentioned, in the chargesheet all that was stated was that the applicant did not go to the place of the alleged occurrence promptly and that he caused unnecessary delay so as to give some advantage to Shri Lavinder Singh and his men to forcibly evict his tenant. There is no mention that any illegal gratification was either demanded or accepted by the applicant.

13. For the aforementioned reasons we are convinced that the impugned order placing the applicant's name in the secret list of persons of doubtful integrity can not be sustained. We accordingly allow this O.A. and quash the impugned Memorandum dated 19.12.1996.

14. However, we make it clear that this shall not debar the respondents from taking appropriate action under the relevant rules relating to promotion, increments, crossing of efficiency bar etc. on re-consideration of the entire matter keeping in view the observations made by us hereinabove.

No costs.

Below
13.5.99.

(T. N. Bhat)
Member (J)

Naresh

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