

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.797/98

(12)

New Delhi, this the 14th day of November, 2000

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Constable Vir Pal Singh No.3022/PCR, S/O
Late Sh. Ramji Lal, aged about 37 years,
presently posted at Police Control Room,
R/O Q.No.H-37, Type-I, P.S. Lodi Colony,
New Delhi.

...Applicant.

(By Advocate: Sh. Sachin Chauhan, proxy for Sh. Shankar
Raju)

VERSUS

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

2. Dy. Commissioner of Police, HQ
(I), Police Head Quarters,
I.P.Estate, MSO Building, New
Delhi.

3. Addl. Dy. Commissioner of Police,
Police Control Room, Police Head
Quarters, I.P.Estate, New Delhi.

...Respondents.

(By Advocate: Sh. Ram Kunwar)

O R D E R (ORAL)

By Hon'ble Shri S.A.T. Rizvi, Member (A):-

The applicant, Constable in this case was appointed as such on 1.9.82 and later confirmed in 1986. On 10.7.96, his colleagues of comparable seniority were promoted to the rank of Head Constable and he ~~was~~ left out on the ground of departmental enquiry ~~was~~ ^{then} underway against him. He was finally punished in the departmental proceedings vide order dated 13.7.96 (Annexure A-3). He was awarded the punishment of withholding of next increment for a period of one year permanently and the period of suspension was to be treated as the period not spent on duty. The appellate authority, however, modified the punishment by holding as under:-

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"8. It is apparent from the record that the main allegation against the appellants is that they failed to check the menace of black marketing of cinema tickets at Shiela Cinema Hall which was in the jurisdiction of their beat. On scrutiny of D.E. files and findings of the enquiry officer, it reveals that there was no any connivance of local police in black marketing of cinema tickets at Shiela Cinema Hall.

(B)

9. I am convinced that the lapse of appellants as enumerated stands proved. But I am also of the view that the punishment of withholding of next increment for a period of 1 year with cumulative effect is a little harsh and not really commensurate with the quantum of lapse. Moreover, the lapse of the appellants can also not be ignored. Considering their unblemished record of service, I am inclined to take a lenient view in the instant case. I am allowing the appeals partially and reducing the punishment from withholding of next increment for a period of 1 year with cumulative effect to that of censure and their suspension period is decided as spent on duty for all intents and purposes."

2. The punishment was thus reduced to that of censure. While the departmental proceedings were on, the applicant was brought on the secret list in terms of the standing order on the subject. His name continues ^{to} figure in that list even now and this is the grievance of the applicant in this case along with related grievance of not being considered for promotion to the rank of HC. He has contended that his juniors have already been promoted to rank of HC w.e.f. 10.7.96.

3. The learned counsel for the respondents has raised two issues. One relates to limitation and other to the existence of the name of the applicant on the secret list. In regard to limitation, we find that the applicant had filed the original OA on 13.4.98. The applicant though placed in the secret list on 4.10.96 was

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not then in a position to approach this Tribunal for a remedy against his placement in that list because of the continuation of the departmental proceedings in his case. As a matter of fact, at the relevant point of time, his appeal against the punishment order was pending which was finally disposed of on 31.3.97. Thus for the purpose of computation of limitation, the time has to be counted, if at all, from 1.4.97. We have seen that the original OA was filed on 13.4.98 implying a delay of just about 13 days in the filing of the OA. However, even this delay is sought to be explained by the learned counsel for the applicant by stating that the inclusion of the name of the applicant in the secret list constitutes a continuous cause of action and his name exists on that list even today. Having regard to this contention in particular, we overrule the objection raised by the learned counsel for the respondents and hold that the application is not time barred.

4. We have perused the standing order which lays down the requirements for inclusion of an officer's name in the secret list. We find that although ordinarily the name of an officer should remain on the list for a period of five years, a provision has been made in the standing order itself for a review after the completion of the pending departmental proceedings. In the instant case, the proceedings concluded on 13.7.96 and the appellate authority took his decision on 31.3.97. In accordance with the standing order, therefore, the secret list should have been reviewed which does not seem to have been done.

5. In the result, the OA succeeds and we dispose of this application with a direction to the respondents to review the secret list and, if otherwise in order, remove the name of the applicant from the said list and grant all the consequential benefits to him as per rules and law on the subject. No costs.


(Ashok Agarwal)

Chairman



(S.A.T. Rizvi)

Member (A)

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