

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 977/1998

New Delhi this the 5th day of December, 2000.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

Sub Inspector Baltej Singh
S/o Shri Surat Singh
R/o A-2, Police Station Sarai Rohilla
Delhi. Applicant

(Shri Rajeev Kumar, proxy for Sh. Shunker
Raju, Advocate)

-versus-

1. Union of India
Through its Secretary
Ministry of Home Affairs
North Block
New Delhi.
2. Lt. Governor
5, Raj Niwas Marg
Delhi.
3. Commissioner of Police
Police Head Quarters
I.P. Estate
New Delhi.
4. Dy. Commissioner of Police
H.Q (I), Police Head Quarters
I.P. Estate
Delhi. Respondents

(By Shri George Paracken, Advocate)

O R D E R (ORAL)

Justice Ashok Agarwal:-

Applicant was enrolled as a direct Sub Inspector in Delhi Police on 15.10.1981. During his tenure of service, disciplinary proceedings were initiated against him on 23.9.1991. By an order passed by the disciplinary authority on 12.10.1992, a major penalty of reduction of pay by four stages was imposed upon him. On a revision made by the applicant against the aforesaid order of penalty, the same was reduced to that of censure by an order passed on 30.10.1996. In

view of the pendency of disciplinary proceedings, applicant's name has been placed in the secret list of persons of doubtful integrity. A meeting of the Departmental Promotion Committee was held on 12.8.1994 to consider promotion from the post of Sub Inspector to that of Inspector. By the impugned order passed on 4.3.1997 at Annexure A-1, applicant's request regarding admission of his name to Promotion List 'F' (Executive) has been rejected. Applicant, in the circumstances, has instituted the present OA.

2. It is, inter- alia, contended on behalf of the applicant that the major penalty has been reduced to that of censure by an order passed on 30.10.1996 at Annexure A-6. In the circumstances, applicant could not have been continued in the secret list of persons of doubtful integrity. Applicant should, therefore, have been considered for promotion with effect from 12.8.1994 when the DPC met to consider the promotions of Sub Inspectors to the post of Inspectors.

3. Aforesaid penalty has been reduced on the ground that the misconduct alleged was not deliberate and no mala fide intention has been proved against the applicant. Aforesaid order of censure, it is now well ~~settled~~ ^{settled} ~~established~~ established, cannot be held out against the applicant in perpetuity. The same will lose its sting after a period of six months from the issue of the order of penalty.

M. J.

4. We have perused the Standing Order No.265 issued by the Senior Additional Commissioner of

Police, Administration, Delhi on 6.4.1995, Paragraphs 7(d) and 8(b) thereof which are relevant for the case in hand provide as under:-

7. EXCEPTIONS -

The names of officers/men of the following category shall not be included in the secret list :

(d) Officers against whom disciplinary proceedings have been completed or are in progress in respect of administrative lapses, and minor violation of CCS (Conduct) rules, and acts of indiscipline. Censure

8. REVIEW OF NAMES BROUGHT ON AGREED/SECRET LISTS -

Names of both the lists will be subject to periodical review as under :-

(b) Secret List- After five years from the date of bringing of name on the list."

5. In the order reducing the penalty this is what has been observed:-

"....In this case, it has surfaced that because of rush of work such type of mistakes cannot be ruled out and these mistakes are not deliberate and no mala fide intention has been proved during the course of departmental proceedings. It is logical to reduce the punishment, awarded by the F.R.R.O. vide order No.5447-61/ For (HAP) dated 12.10.1992 to censure only."

6. Applicant has been charged in the aforesaid proceedings under the following charge:-

"You, SI Baltaj Singh, No.D/631 are hereby charged that while you were posted at FRRO, you were detailed for duty as clearing

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officer at the departure counter left wing with stamp No.W-10 Computer No.87 on the night between 25/26.8.91 at IGI Airport and you cleared 7 passengers with 7 children to flight No.LH-761 though they were holding forged passports as per details indicated against each:-

1. Rano with one child V-027596 dt.20.10.83
Delhi in the name of
Rita Rani.
2. Brijesh Srivastava B-01 3142 dt.17.7.91
Delhi and old
Y-113729 dt.16.5.86
Chandigarh in the
name of Gurbax Singh.
3. Salto with 3 children Y-11371 dt.16.5.86
Chandigarh in the
name of Parsin Kaur
4. Manjit Kaur V-506414 dt.3.3.84
Delhi in the name
of Monika.
5. Kuldeep Sharma E-068545 dt.9.6.88
Delhi in the name of
Subhash Chander
Khanna.
6. Rajwinder Kaur with V-668597 dt.18.2.84
3 children Delhi in the name of
Bindu Khanna.
7. Sarup Bhatnagar B-011055 dt.19.7.91
Delhi in the name of
Hari Ram.

Shri S.R. Meena, ACP/AFFRO received an information regarding the clearance of some passengers against forged passports. He deputed Insp. Vijay Kumar, No.D-1/437 and H.S. Bisht No.D/1824 to conduct surprise rechecking of the passengers and it was detected that all the above 7 passengers were cleared by you SI with Immigration Stamp No.W-10 at Computer No.87 against forged passports. It was also found that the photographs of the passports were replaced, signatures of passports issuing authority were forged and the Immigration Arrival Stamps on the same of the passports were also forged. Accordingly cases vide FIR No.431/91, 432/91, 433/91, 434/91, 435/91, 436/91, 437/91, and 438/91 were registered under the appropriate sections of law at P.S. IGI Airport, New Delhi."

revisional been
By the aforesaid order, it is apparently found that
though the applicant had cleared the passengers
carrying forged passports, there was no mala fide

intention and it was because of rush of the passengers when the aforesaid lapse had occurred.

7. In view of the aforesaid facts and circumstances as also the aforesaid provisions contained in the Standing Order No.265, we find that this will be a fit case to direct the respondents that without waiting for a period of five years from the date of the order of censure, ^{to lapse, proceed to} review the case of the applicant for being removed from the secret list.

8. As far as the claim for promotion of the applicant to List 'F' (Executive) is concerned, the same has been rejected by the DPC which met on 12.8.1994 ^{the same} and ^{it was} conveyed to him vide order dated 13.4.1998 at Annexure A-4. That the rejection was on two grounds, namely because of his indifferent service record and average ACRs which could not make the grade before the DPC. ~~The same has been rejected~~ ^{and} on the further ground that his name had been placed on secret list of persons of doubtful integrity. ^{In respect of the last ground} It has been pointed out that the applicant had failed to achieve benchmark of three good ACRs during the preceding 5 years.

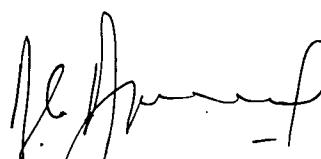
9. Based on a decision of this Tribunal in the case of Vijender Singh vs. Union of India & ors. in OA No.481/1997 rendered on 11.4.1997, it is, inter alia, contended by the learned counsel for the applicant that his grading of "Average" in his ACRs are liable to be treated as "Good". In the format of ACRs, the gradings mentioned are "Outstanding/Very

Good/Average/Below Average". There is no grading of "Good". In the circumstances by the aforesaid order, "Average" grading has been directed to be considered as "Good". Applicant, in the circumstances, ^{we find is} ~~entitled to~~ ^{claims} the very same relief while considering his prayer for promotion. Review DPC to be constituted will consider "Average" grading as "Good" while considering applicant ~~for promotion~~.

10. If one has regard to the aforesaid facts and circumstances, we find that the ends of justice will be met by directing the respondents to review the case of the applicant for the purpose of removing his name from the secret list of persons of doubtful integrity within a period of two months from the date of service of this order. The claim of the applicant for promotion to List 'F' (Executive) be thereafter considered afresh ^{review in respect of} in the light of the decision to be taken in respect of ^{to be given to} the name of the applicant on the secret list and on the basis of the directions contained in the present order in regard to the gradations ^{of} ~~of~~ the applicant in his ACRs. This also be done expeditiously and within a period of 6 months from the date of service of this order.

11. Present OA is partly allowed in the aforesated terms with no order as to costs.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman