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Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.19/95

New Delhi this the 14th Day of November, 1995.

Hon'ble Mr. B.K. Singh, Member(A)

Head Constable Ved Parkash,
S/o Sh. Dharam Singh,
R/o 481, Gali No.34,
Onkar Nagar-C, Trinagar,
Delhi-110035.

Applicant

(through Sh. Shankar Raju, advocate)

versus

1. Lt. Governor of N.C.T. of Delhi
(through Commissioner of Police)
Police Headquarters, M.S.O. Building,
New Delhi.

2. Dy. Commissioner of Police,
Headquarter-I, Police Hqrs.,
M.S.O. Building, I.P. Estate,
New Delhi.

Respondents

(through Sh. Ajesh Luthra, proxy counsel for
Ms. Jyotsna Kaushik, advocate)

O R D E R
delivered by Hon'ble Sh. B.K. Singh, Member(A)

This O.A.No.19/95 has been filed against
Order No.9865-67/CB-VII dated 29.3.1994 (Annexure-A1)
and Order No.214/P.SEC.3rd BN.DAP dated 10.8.1991
(Annexure-A2).

The following reliefs have been prayed for
in the present O.A.:-

- (i) to expunge the Grading 'C' in the A.C.R. of the applicant at Annexure A-2 and to direct the respondents to convert the same as Grading 'B' in accordance with Rule 13.17 of the Punjab Police Rules, 1934;
- (ii) to expunge the 'adverse remarks' of "The work and conduct remained below average during the period under review" at Annexure A-2.



- (iii) to set-aside the impugned order at Annexure A-3; and
- (iv) to direct the respondents to reconsider the promotion of the applicant through a review D.P.C. in view of changed Grading 'B' with effect from 10.10.1994, alongwith all consequential benefits to the applicant.

Relief No. was not pressed at the time of hearing and as such this is not being adjudicated upon.

On notice, the respondents filed the reply contesting the application and grant of reliefs sought for.

Heard the learned counsel Sh. Shankar Raju for the applicant and Sh. Ajesh Luthra, proxy counsel for Ms. Jyotsna Kaushik for the respondents and perused the record of the case.

The short question that is involved is whether in case of expunction of certain adverse remarks and certain portion of adverse remarks remaining in the A.C.R., can the grading be changed? The learned counsel for the applicant vehemently argued that at the time when the remarks were communicated, Punjab Police Rules, 1934 were still in vogue which lays down (A) as outstanding (B) can be good/satisfactory or alongwith an adverse portion also. He also produced a copy of the letter No.4014-40 dated 11.5.1981 which has been taken on record. This also quotes the provisions of Punjab Police Rules contained in Rule 13.17. In continuation of this, it was ordered that henceforth all the Annual Confidential Reports of lower subordinate and upper subordinate be classified as above and ensured compliance by all reporting and reviewing officers compliance. Here

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also it shows that B' report can be good/satisfactory/ containing adverse portion also. In this circular, it has been desired that the provision of P.P.R. as ^{Rule} contained in 13.17 in regard to the grading of officers as A/B&C ~~reports~~ should be followed and it has been further stipulated that when a person is being graded as A or C, there must be detailed reasons why an officer is being graded as 'A' or reasons for grading him 'C'. The learned counsel for the applicant further argued that grading is important for promotion of an officer and if the same is not revised then inspite of his being senior to others, juniors will take amarch over him and that is the reason why he has come up again against the action of the respondents in rejecting the representation for upgrading the grading from 'C' to 'B' since the representation filed has since been rejected and the liberty was granted to him in the order of the Tribunal in O.A.No.971/93 decided on 5.11.93. M.A.No.3624/94 was also filed in O.A.No.971/93. In this he had made a prayer regarding upgradation of the grading recorded in the A.C.R. While passing an order in the M.A., the applicant was directed to file a fresh O.A. and in pursuance of that order he has approached the Tribunal.

After hearing the rival contentions of the learned counsel for the parties and going through the record of the case, it is clear that the portion of the adverse remarks that "the work and conduct remained below average during the period under review" at Annexure A-2 of the paperbook still remains. If a person is described as below average, it is also

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a kind of rating given to him and it goes much below average. Average grading is worse and below average is still worse. If below average remains in the ACR inspite of the circular and inspite of provisions contained in Rule 13.17 of the PPR, the grading cannot be improved. Unless this remark which itself is a rating goes the grading, cannot be improved from 'C' to 'B'. Unfortunately, there was no judgement in respect of this portion and this still remains valid and this militates against the upgradation of the grading from 'C' to 'B'. Since this relief is not pressed, this is not being examined on merits. There can be no direction as prayed for in the relief clause (i) for converting the grading as 'B' in accordance with Rule 13.17 of the Punjab Police Rules, 1934. The intention of the provision contained in the PPR 13.17 may be another kind of adverse remark which has nothing to do with the grading of an officer particularly when he is described below average. He will go down even below 'C' if there is column in the A.C.R. like that. An officer is described as outstanding/very good/good/average and if same officer is being described as below average, his grading cannot be improved. In the present case, there is no case for issuing any direction to the respondents to convert the grading from 'C' to 'B'. The O.A. fails and is dismissed, leaving the parties to bear their own costs.

/vv/


(B.K. SINGH)
MEMBER (A)