

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.837/95

NEW DELHI THIS THE <sup>17th</sup> DAY OF OCTOBER, 1995.

HON'BLE MR.B.K.SINGH, MEMBER(A)

Inspector(Executive) Kishori Lal Dogra  
No.D-I/269  
S/o Shri Ram Krishan  
R/o 827 Timarpur,  
Delhi-110007.

Applicant

(BY ADVOCATE SHRI SHANKER RAJU)

vs.

1. Union of India/Lt.Governor of N.C.T.D  
(Through Commissioner of Police)  
Police Headquarters, M.S.O. Building  
New Delhi.
2. Additional Commissioner of Police  
(Operations)  
Police Headquarters,  
M.S.O. Building,  
New Delhi.

Respondents

(BY ADVOCATE SHRI RAJ SINGH)

ORDER

This OA (OA No.837/95) is directed against Order No.16793/CB-VII dated 30.5.1994 whereby the applicant was communicated adverse remarks pertaining to the period from 1.7.1992 to 25.1.1993 and order No.22923/CB-VII dated 10.4.1995 whereby the representation made against the adverse ACR was disposed of by observing that a portion of the remarks goes but all other adverse remarks will stay in the ACR in Col.16.

2. The admitted facts are that the applicant was posted from 1.7.1992 to 25.1.1993 as the Station House Officer of I.G.I. Airport, New Delhi and no heinous crime was reported in that Police Station. A total of 376 cases of different types were registered out of which 345 cases were investigated and challans submitted and there was conviction in 189 cases. It has been contended that during the period of the ACR, the applicant had acted with utmost devotion and sincerity and his performance was excellent. The crime under his Police Station was under effective control.



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3. Relief sought in the OA is to expunge and set aside the adverse remarks contained in the ACR of the applicant placed at Annexure A-1. Further relief sought is to direct the respondents to upgrade the grading on the basis of the expunction of remarks vide Annexure A-1 and also set aside the appellate order at Annexure A-2 and consequently consider the case of promotion of the applicant to the rank of Assistant Commissioner of Police from the date his juniors were promoted i.e. from the year 1994 with all consequential benefits.

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

5. Heard the learned counsel Shri Shankar Raju for the applicant and Shri Raj Singh, counsel for the respondents and perused the record of the case.

6. The main ground taken by the learned counsel for the applicant is that the period of the ACR is from 1.7.1992 to 25.1.1993 and these remarks were communicated to the applicant on 5.7.1994 i.e. after a lapse of 17 months and in clear violation of the instructions contained in Annexure A-8 enclosed with the paperbook. These guidelines are to the effect that the reporting officer must write the ACR by the April of the year and the reviewing authority should also complete the entries within one month after the receipt of the remarks of the reporting officer. The instructions and the guidelines in the case of the applicant, according to the learned counsel for the applicant, have not been followed. The learned counsel argued that it was not only question of delay but inordinate delay on the part of the respondents and this was done with a view to deprive the applicant of his right to promotion as Assistant Commissioner of Police alongwith his juniors.



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The other juniors against whom adverse remarks were recorded were communicated on time barring the applicant. It was further alleged that bias is manifest in the conduct of the reporting/reviewing authorities. It was argued that the applicant has been getting outstanding/very good remarks from the year 1984 but due to some personal reasons the reporting and the reviewing officers during the period in question have downgraded his ACR and have also recorded adverse remarks. The instances quoted to substantiate the allegations of bias are the communication of remarks after 17 months, retention of the applicant for a long time after his transfer to the Central District by the reviewing authority, giving 'A' report to SI Rajinder Kishore co-defaulter, clearing the ACRs of all other Inspectors in 1993 and withholding the ACR of the applicant, giving 'A' report to SI Umesh Singh, Sanjiv Gupta, Balbir Singh and several others despite their facing Departmental Enquiries and without mentioning the same in their ACRs, cancelling the Earned Leave of the applicant, recalling him to join duty; issuing a special order and serving the summary of allegations despite the applicant's ill health. There are concrete instances of bias on the part of the reviewing officer as indicated below.

7. The applicant was not allowed to join the Central District on 22.1.1993 and this was with a view to keep the Departmental Enquiries with himself to punish the applicant by passing the order dated 21.1.1993. The reviewing officer did not review the ACR of the applicant for 17 months despite directions given by the Hon'ble Tribunal in OA No.1317/93. The direction was not to pass an order in the D.E. The applicant's Earned Leave was cancelled under the orders of the Reviewing Authority and he was directed to report for duty and when he reported for duty a summary of allegation was served on him. In this

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connection, the learned counsel drew the attention of the court to the various enquiries held against the applicant. The order of Shri R.C.Kohli, Additional Commissioner of Police has been placed at Annexure A-6. The operative part of the said order reads as follows:

" I have gone through the file and the vigilance findings. I agree with the findings of the Enquiry Officer. Credence cannot be placed on the version of the complainant who has a confirmed criminal past. He has concocted a totally baseless and misleading story not only to demoralize these two police officials but also to create extenuating circumstances for himself at the time of trial.

I therefore hold that no action against Inspr. K.L.Dogra No.D-I/269 and S.I. Rajinder Kishore No.D/1903 is called for."

8. In the other Departmental Enquiry also it has been clearly said "no PW has stated that the SHO had failed to ensure proper and meaningful investigation of the passport forgery cases. No evidence has come on the file that the outcome of the investigation of the cases was uniformly poor and that Inspector K.L.Dogra was responsible for the same."

9. The remarks in the ACR recorded for that period read as under:

Devotion to duty "Just Satisfactory."

Overall Assessment- " An Average Officer whose overall performance during the period under report was found to be not satisfactory."

Grading "Below Average."

Remarks of Reviewing Authority. "Unfit to be posted in the Police Station."

After the representation was filed, a portion of the adverse remarks was expunged which is contained at Annexure A-2 and reads as follows:

" Because of his lackadaisical investigation and alleged connivance with the travel agents, two D.Es were initiated against him which are pending."

10. These remarks in the ACR were described by the learned counsel for the respondents as subjective impressions of the reporting/reviewing officer and he argued that these remarks cannot be expunged. The basic question is whether

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the remarks have been recorded out of sheer bias and malice and whether they are in conflict with the various commendation letters issued to the applicant during the period in question. The applicant was communicated a commendation by the Deputy Commissioner of Police (West District) which reads as follows:

" Granted to Insp.K.L.Dogra SHO/IGI Airport in recognition of his excellent work in solving a robbery case in the area of PS Rajouri Garden."

In addition to this citation he was given a cash reward of Rs.500/-. During the same period, an Additional Commissioner of Police, Delhi Operations, Delhi granted a certificate of commendation which also reads as under:

" Granted to Insp. Kishori Lal No.D-1/269 in recognition of his good work done with utmost dedication, sincerity and keenness in the detection of heinous cases, their disposal of cases were quite good and pendency of cases was quite low."

He was granted cash reward of Rs.1000/-only. During the same period, the United States, Department of Justice immigration and Naturalisation Service granted to him a certificate in recognition of his commitment to law enforcement. This certificate is dated August 31, 1992. During the same period, he was granted another commendation letter in recognition of his high sense of responsibility during his deployment in Hauz Qazi area of Central District for law and order duty. In 1993, he was again granted a commendation certificate and thus one finds that there is a galore of such letters granted to him during the aforesaid period itself from various senior officers. Taking a synoptic view of the various commendation letters regarding applicant's sense of responsibility, devotion to duty and his performance and also a certificate granted by the United States for excellent work being done by him in regard to immigration and naturalisation service, the adverse remarks recorded by the reporting/reviewing officer cannot stand the test of scrutiny particularly when a senior officer like the Additional Commissioner of Police, Delhi Operations,

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Delhi had given a thundering certificate in recognition of his work and performance.

11. A perusal of the record shows that the applicant has been able to cite a large number of concrete instances substantiating bias on the part of the reporting/reviewing officer. This is also manifest from their conduct since the remarks are in conflict with the various appreciation letters/commendation certificates granted to the applicant during the same period. I have no hesitation in declaring the remarks as biased and as such these remarks are quashed and set aside. The application succeeds and is allowed. The respondents are directed to expunge all the adverse remarks which they have recorded minus the adverse remarks which have already been expunged by the competent authority on the basis of his representation vide Annexure A-2. The respondents are also directed to be fair and objective in grading the officer taking an overall view of his performance and work. If the adverse remarks, as directed are expunged, his case for promotion to the rank of Assistant Commissioner of Police shall be considered by a review DPC for promotion on par with his juniors provided he is otherwise eligible for consideration and there is nothing against his work and conduct minus the adverse remarks. In the two DEs in which this ACR was taken into account not an iota of evidence has been found to substantiate the charges in the DEs

launched against him and his subordinate Kishore Lal and on that ground alone, the remarks deserve to be expunged.

12. With these directions, this OA is disposed of but without any order as to costs. The respondents are directed to complete the work of expunction of remarks and the calling of review DPC for consideration of his promotion to the rank of Assistant Commissioner of Police if he is otherwise

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eligible in the light of the observations made above within a period of 4 months from the date of receipt of a certified copy of this order.



(B.K.SINGH)  
MEMBER(A)

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