

Central Administrative Tribunal, Principal Bench

Original Application No.252 of 1996

New Delhi, this the 17th day of November, 1999

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. R.K. Ahooja, Member (Admnv)

Shri Om Singh son of Late Shri Bhagwan Singh, employed as Asstt. Sub Inspector of Police, P.C.R. Unit, Delhi, r/o Paschim Vihar New Delhi address for service of notices, C/o Shri Sant Lal Advocate, C-21 (B) New Multan Nagar, Delhi-110056

- Applicant

(By Advocate - Shri Sant Lal)

Versus

1. The Union of India, through the Secretary, Ministry of Home Affairs, North Block, New Delhi-110001
2. The Commissioner of Police, Police Headquarters, MSQ Building, I.P. Estate, New Delhi-110002
3. The Sr. Addl. Commissioner of Police, (AP & T), Police Headquarters, MSQ Building, I.P. Estate, New Delhi-110002
4. The Dy. Commissioner of Police, Xth Battalion, D.A.P., Delhi. - Respondents

(By Advocate Shri Rajinder Pandita)

O R D E R (Oral)

By Mr. R.K. Ahooja, Member (Admnv) -

The applicant, a Sub Inspector in Delhi Police is aggrieved by the adverse remarks recorded in his ACR for 1993-94 and conveyed to him vide letter dated 1.9.94 (copy at Annexure-A-1). The adverse remarks include a reference to the punishment of censure awarded to him by Deputy Commissioner of Police (in short 'DC') 10th Battalion, vide his letter dated 23.11.1993.

2. The case of the applicant is that on an appeal filed by him, the said penalty of censure was recalled

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and, therefore, the adverse remarks against him ~~are~~ longer ~~are~~ justified. He further submits that on the basis of the aforesaid adverse remarks his case for admission to Promotion List-E (Ministerial) was rejected. He has accordingly come before this Tribunal seeking quashing of the impugned order dated 1.9.1994 containing the adverse remarks and a direction to the respondents to consider him for promotion according to his seniority.

3. The respondents have stated in the reply that the appeal of the applicant against the penalty of censure was allowed and they have accordingly expunged the aforesaid adverse remarks relating to the said penalty of censure; however, he, having been graded as 'below average', could not be admitted to List E-1 (Ministerial) for promotion.

4. We have heard the counsel and also perused the ACR dossier of the applicant. We noticed that in regard to the entry for 1993-94 the whole portion of reference to imposition of penalty of censure has been obliterated. In the result, the relief sought for by the applicant in regard to expunction of the adverse remarks relating to the penalty of censure, has already been granted by the respondents. Shri Sant Lal, learned counsel for the applicant, however, submitted that if the adverse remarks regarding penalty of censure had been obliterated then the applicant's over all grading from 'below average' should also be changed to a better grading keeping in view the other good points mentioned

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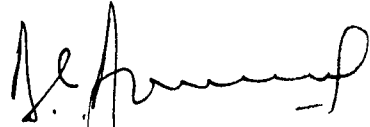
in his ACR including the remark that "[H]e was fit for promotion to the rank of S.I. on his turn". Shri Rajinder Pandita, learned counsel for the respondents, however, pointed out that there are other adverse entries in the ACRs of the officer and the promotion rules of Delhi Police require that the applicant should have at least 3 'Good' reports in order to qualify for admission to Promotion List-E (Ministerial).

5. We find that even though the reference to the imposition of censure has been cancelled by the respondents, a decision ~~should~~^{not} have been taken by the competent authority as to whether this deletion in the ACR would justify a change in the over all assessment of his work and conduct during the period under report. We find that there is a reference to use of unparliamentary language with his colleagues and it has also been mentioned that his relation with fellow employees was unsatisfactory. It is not clear as to whether this conclusion of the reporting officer was based on the punishment of 'censure' or ~~from~~^{on} other ~~certain~~^{material} factors. Be that as it may, we consider that in the interest of justice, after the cancellation of the penalty of censure, there was need for reconsidering the over all assessment of the work of the applicant as to whether even after that the applicant would be fit to be considered for promotion.

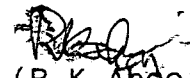
6. Accordingly, the OA is partly allowed. The respondents are directed to reconsider the overall assessment of the work and conduct of the applicant taking into account the order passed in respect of the

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penalty of censure imposed upon the applicant vide DCP 10th Battalion's order dated 23.11.1993. If there is any change in the overall assessment, the case of the applicant will thereafter be reviewed in regard to his promotion and admission of his name in List-E (Ministerial) from the date from which his juniors were so admitted and promoted, within a period of four months from the date of receipt of a copy of this order. No costs.



(Ashok Agarwal)
Chairman



(R.K. Ahooja)
Member (Admnv)

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