

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 336/96

199

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T.A.No.

DATE OF DECISION 4-2-2000

Sh.Ganga Singh

....Petitioner

Sh.Shyam Babu

....Advocate for the
Petitioner(s)

VERSUS

Commissioner of Police
and Ors.

....Respondent(s)

Sh.Vijay Pandita


....Advocate for the
Respondents.

CORAM

The Hon'ble Smt.Lakshmi Swaminathan, Member (J)

The Hon'ble Shri M.P.Singh, Member (A)

1. To be referred to the Reporter or not? Yes
2. Whether it needs to be circulated to other
Benches of the Tribunal? No.


(Smt. Lakshmi Swaminathan)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 336/96

New Delhi this the 4th day of February, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri M.P. Singh, Member (A)

Ganga Singh (D 2094),
S/O Late Sh. Badri Pershad,
resident of H.No. 1119/73,
Deva Ram Park, Trinagar,
Delhi-35.

.. Applicant

(By Advocate Shri Shyam Babu)

Versus

1. Commissioner of Police, Delhi
Police Headquarters, I.P. Estate,
New Delhi-2
2. Deputy Commissioner of Police
(HQ) I, Police Headquarters,
I.P. Estate, New Delhi-2

.. Respondents

(By Advocate Shri Vijay Pandita)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant who was working as Sub-Inspector (Executive) in Delhi Police is aggrieved by the action of the respondents in not considering him for promotion to list F (Ex.) when his juniors were promoted as Inspectors w.e.f. 12.8.1994. The applicant has submitted that he had made a representation against the aforesaid action of the respondents which has been rejected on 9.5.1995, the validity of which has been impugned in this O.A.

2. The brief relevant facts of the case are that a departmental enquiry was instituted against the applicant by the respondents by order dated 24.3.1992. He has stated that the departmental enquiry had nothing to do with the moral turpitude or corruption charges. He has further submitted that probably the respondents placed his name in the list of persons of doubtful integrity on or around 4.5.92. The respondents, after holding the departmental enquiry against the applicant, passed the punishment order dated 27.3.1993 withholding ~~the~~ two increments for a period of two years permanently against him. Applicant had filed an appeal against this order which has been dealt with by the

Appellate Authority in his order dated 16.9.93 who had come to the conclusion on the basis of the evidence and documents place before him that the D.D. entry in question could be attributed to a genuine misunderstanding between "has consumed" and "is conscious." Therefore, although it was a lapse on the part of the applicant not to make the necessary entry, he observed that it was not indicative of malafide on the part of the applicant and accordingly reduced the punishment imposed by the disciplinary authority to one of "Censure".

3. Shri Shyam Babu, learned counsel for the applicant has submitted that the respondents by order dated 12.8.94 had published the promotion order promoting certain persons to List F(Ex.) w.e.f. that date under Rule 17(i) of the Delhi Police (Promotion and Confirmation) Rules, 1980. According to him, applicant's name should have also figured in the list between Serial No. 226, Sh. Shehnoor Khan, D-130 and Serial No. 227, Sh. Ganga Ram, D-1470. In this connection, he has drawn our attention to the seniority list of Sub Inspectors (Ex.) (Annexure-D) in which it is seen that the applicant's name is placed between Sh. Shehnoor Khan and Shri Ganga Ram. Learned counsel has submitted that the validity of the censure which has been imposed on the applicant by the appellate authority had expired before the respondents had called for the particulars of the eligible persons for consideration for promotion to List F(Ex.) in March, 1994. He has submitted that the respondents had placed the applicant's name in the list of persons of doubtful integrity on or around 4.5.92 because of the departmental enquiry pending against him which was instituted on 24.3.1992. He has submitted that as the imposition of punishment of censure has now ended, there is no justification in continuing the applicant's name in the list of persons of doubtful integrity. He has, therefore, submitted that a direction may be given to the respondents to reconsider the applicant's case for admission to promotion list F(Ex.) along with his junior Sh. Ganga Ram and his name may be placed in that list in accordance with the rules between Serial Nos. 226 and 227, if he is otherwise found fit.

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4. We have seen the reply filed by the respondents and heard Shri Vijay Pandita, learned counsel for the respondents. In the reply the respondents have stated that the name of the applicant was existing on secret list of persons of doubtful integrity as per their Standing Order No.265/87 and therefore, his promotion was withheld. They have also stated that this was the principle adopted by the DPC in excluding such persons whose certificate of integrity has been withheld. As the applicant's name was in this list, they have stated that he had been found unfit ^{for promotion} as Inspector when admittedly his junior was so promoted w.e.f. 12.8.94. They have therefore, submitted that the applicant's representation has also been correctly disposed of.


5. We have carefully considered the submissions made by the learned counsel for the parties.

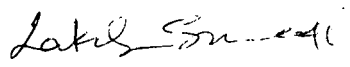
6. It is seen from the reply of the respondents that they have placed the name of the applicant in the list of persons of doubtful integrity based on the departmental enquiry which was instituted against him by order dated 24.3.1992. As mentioned above this enquiry has since been concluded ^{by} imposition of only 'Censure' by the appellate authority by ~~its~~ ^{also} order dated 16.9.93. This does not appear to come within the provisions of censure awarded in the case of moral turpitude ^{or} ~~and~~ corruption charges. It is also not disputed that an order of censure would be valid only for a period of 6 months from the date of its imposition. In the facts and circumstances of the case, therefore, application is entitled to succeed and is allowed with the following directions:-

- (i) Impugned order dated 9.5.1995 is quashed and set aside;
- (ii) Respondents are directed to hold ^a Review DPC to ~~be~~ ^{to} consider the case of the applicant for admission to promotion list F(Ex.) from the date when his junior was so promoted i.e. from 12.8.94, if he is otherwise found eligible under the relevant rules and instructions.

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keeping in view the above observations also. This action shall be taken within two months from the date of receipt of a copy of this order with intimation to the applicant immediately thereafter. No order as to costs.


(M.P. Singh)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)