

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 575/1996

New Delhi this the 2nd day of December, 1999.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SMT. SHANTA SHASTRY, MEMBER (A)

Radhey Shyam S/O Laxman Dass,
working as Inspector in the
Office of FRRO, New Delhi,
R/O Qr. No.32, Type-III,
Police Colony, Shalimar Bagh,
New Delhi.

... Applicant

(None present)

- versus -

1. Lt. Governor, Delhi Admn.,
Delhi.
2. Commissioner of Police,
Delhi.
3. Addl. Commissioner of Police,
Police Headquarters,
Spl. Cell (SB), Delhi.

... Respondents

(By Shri Amresh Mathur, Advocate)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

Applicant and his advocate are absent when the present O.A. is called out for hearing. Shri Amresh Mathur has appeared on behalf of the respondents. We have heard Shri Mathur and we proceed to dispose of the O.A. on merits as provided under Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. By the present O.A., applicant seeks to impugn an order dated 21st December, 1994 whereby applicant was denied his claim to cross the Efficiency Bar (EB) with effect from 1st December, 1993 and was permitted to cross the same w.e.f. 1st December, 1994. Applicant also claims that his suspension period from 20th

October, 1993 to 30th December, 1993 should be directed to be treated as spent on duty with full pay and allowances.

3. Short facts leading to the filing of the present application may be stated.

Applicant was enrolled in Delhi Police as a Sub Inspector w.e.f. 12th April, 1977. He was promoted as Inspector w.e.f. 28th December, 1987. His scale of pay was Rs.2000-60-2300-EB-75-3200. He was due to cross the EB w.e.f. 1st December, 1993 thereby raising his pay from Rs.2,300/- to Rs.2,375/-. The same was, however, kept pending till the decision of a departmental enquiry pending against him. The said departmental enquiry had been initiated against applicant on 12th July, 1994. By a decision dated 26th October, 1994, the departmental enquiry was decided and applicant was awarded a punishment of censure and his suspension period from 20th October, 1993 to 30th December, 1993 was treated as leave of the kind due. His case for crossing the EB w.e.f. 1st December, 1993 was again put up for consideration. By an order dated 21st December, 1994 applicant was passed over for a period of one year w.e.f. 1st December, 1993 and was permitted to cross the EB w.e.f. 1st December, 1994. Aforesaid decision was taken after taking into account the indifferent service record of applicant, namely, adverse A.C.Rs. for the period 1st April, 1993 to 31st March, 1994 as also the censure awarded after substantiation of his misconduct found in the departmental enquiry. The decision imposing a penalty on the applicant of censure, it is significant, is not impugned in the present O.A. Hence, the said penalty which is imposed upon the applicant

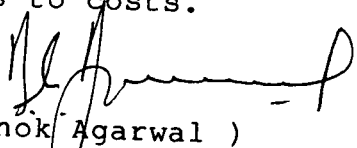
He. A

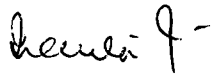
would in itself be sufficient to justify the passing of the impugned order postponing the crossing^{of} the EB by one year. Applicant has himself annexed a copy of the confidential report which has been communicated to him. The same contains the following adverse remarks :

"...but lacks initiative. Preventive and detective ability is lacking. He is reliable. He is an average officer, arrogant in nature and facing departmental enquiry on this count. His grading is Average."

4. If one has regard to the aforesaid remarks contained in the applicant's A.C.Rs. coupled with the punishment of censure, we do not see how the applicant can successfully assail the postponement of his crossing the EB by one year. As far as the prayer for treating the suspension period as spent on duty is concerned, the same, in our view, cannot be granted especially in view of the fact that the order directing the same to be treated as leave of the kind due was passed in the order imposing the penalty of censure. If the main order of censure itself is not challenged, we do not see how applicant can be permitted to impugn the consequential order directing the suspension period to be treated as leave of the kind due.

5. Present O.A., in the circumstances, we find is without merit and the same is accordingly dismissed. There will, however, in the facts and circumstances of the case, be no order as to costs.


(Ashok Agarwal)
Chairman


(Shanta Shastry)
Member (A)

/as/