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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.627 of 1996

Dated this 8th day of December, 1999

HON'BLE MR.JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MRS. SHANTA SHAstry, MEMBER (A)

Abdul Kalim (1666/D)
Presently working as ASI in the Office of
Deputy Commissioner of Police
Special Branch
Police Headquarters. I.P. Estate
New Delhi. Applicant

(By Advocate: Shri Shyam Babu)

Versus

1. Lt. Governor Delhi
Raj Niwas Marg
Delhi.
2. Commissioner of Police Delhi
Police Headquarters
I.P. Estate
New Delhi.
3. Senior Additional Commissioner of Police
(Administration)
Police Headquarters
I.P. Estate
New Delhi. Respondents

(By Advocate: Shri H.L. Jad)

O R D E R (Oral)

Mrs. Shanta Shastry, M(A):

The applicant had joined Delhi Police as a Constable and was promoted from time to time. He was confirmed as Assistant Sub Inspector with effect from 5.11.1989. On 2.7.1993 a departmental enquiry was initiated against the applicant on certain allegations. The enquiry related to the period of April 1993. As a result of the enquiry, the applicant was awarded a punishment of forfeiture of two years of service with cumulative effect. Later on, after he had filed an appeal, his punishment was reduced to censure on 16.3.1995.

2. In the meantime, some ad hoc promotions were made to the post of sub Inspectors on 31.3.1994. Thereafter a regular DPC was held for regular promotions to the post of Sub Inspectors on 25.11.1994. The applicant was not considered. A further DPC was held on 13.1.1995 and juniors to the applicant were considered for promotion to the post of Sub Inspector in that DPC. The prayer of the applicant is that since his penalty was converted into censure, he should have been considered for promotion six months after the date of imposition of the penalty i.e., 20.5.1991. The applicant also informs us that he has now been promoted with effect from 22.9.1998 with proforma promotion from 17.9.1997.

3. According to the circular issued by the Deputy Commissioner of Police, Delhi, dated 2.12.1994, officers who have been awarded censures during the last six months with no other punishment can be allowed to be brought on promotion list. However, the effect of censure by debarring the official for promotion by six months from the date of award shall continue. The applicant is relying on this order to give him promotions with effect from 20.11.1994, i.e. the date of completion of six months period from the date of imposition of penalty.

4. The learned counsel for the respondents submits that there were censures awarded to the applicant prior to 1993. In 1992 his name was brought on the Agreed List of persons of doubtful integrity. Thereafter on being awarded the major penalty on 20.5.1994, the applicant's name was brought into the Secret List of doubtful integrity. According to Standing Order No.265, there are two lists on staff of doubtful integrity, namely Agreed List and Secret List. The Secret List of doubtful integrity includes the names of officers falling under one or more of the following categories:

" (i) Officials convicted in a court of law on a charge of lack of integrity or for an offence involving moral turpitude but on whom, in view of exceptional circumstances, a penalty other than that of dismissal, removal or compulsory retirement is imposed.

(ii) Officials who are awarded a major penalty departmentally (a) on charges of lack of integrity (b) on charges of gross dereliction of duty in protecting the interest of Govt. although the corrupt motive(s) may not be capable of proof and (c) punished for misuse of power, abuse of official position to extort money.

(iii) Officials against whom proceedings for a major penalty or a court trial are in progress for alleged acts involving specific charges of lack of integrity of moral turpitude. In non-specific cases the names may initially be brought on agreed list and transferred to secret list on award of major penalty/conviction as the case may be.

(iv) Officials who are prosecuted but acquitted on technical grounds and in whose cases on the basis of evidence during the trial, reasonable suspicion remains regarding their integrity."

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5. The applicant's case falls under categories(ii) & (iii). According to this order there is also a provision for review of names brought on Agreed and Secret Lists. The review of those in the Agreed List is to be carried out after one year from the date of bringing of names on the list and for those in the Secret List the review is after three years.

6. The applicant's name was not considered for promotion in the DPCs on 25.11.1994 and 13.1.1995 when the effect of censure had already expired. It is not clear whether any review was carried out either of the Agreed List or the Secret List as far as the applicant is concerned. However, the learned counsel for the applicant informs us that the applicant was cleared for Efficiency Bar on 1.1.1996. As such also he should have been considered for promotion much earlier.

7. The learned counsel for the respondents insisted that since the applicant's name continued to be in the Secret List, he should not be considered for promotion.

8. We have perused the counter and after hearing the learned counsel for the applicant and respondents, we are of the view that since the applicant's major punishment was converted into censure on 16.3.1995, his name should not have

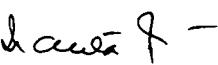
been continued in the Agreed List or the Secret List of doubtful integrity. It should have been reviewed well in time because the applicant's name was included in the Secret List only because of major penalty and since that was converted into censure the reason for continuing his name in the Secret List no longer survives. Since a censure is to have effect only for six months from the date of imposition of the penalty and as the major penalty was imposed on 20.5.1994, the effect of the censure would have been over on 20.11.1994, i.e. much before the DPC for regular promotions was held on 25.11.1994.

9. In the light of the above discussion, we are of the view that the applicant's name should have been considered in the DPC held on 25.11.1994. We, therefore, direct the respondents to review the Agreed List and the Secret List so as to delete the name of the applicant from those lists of doubtful integrity from the due dates and to hold a review DPC to consider giving him promotion as if he had been considered in the DPC held on 25.11.1994 for regular promotion on his own merits. The applicant will be entitled to all consequential benefits. This may be done within a period of three months from the date of receipt of a copy of this order. In the result, we set aside the impugned orders dated 19.4.1995, 26.9.1995 and 22.1.1996 are set aside.

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10. Accordingly the OA succeeds. We do not order any costs.


(Ashok Agarwal) -
Chairman


(Mrs. Shanta Shastray)
Member(A)