

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL - 17-
PRINCIPAL BENCH
NEW DELHI.

OA 2418/97

New Delhi this the 28th day of August, 1998.

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

Hon'ble Shri K. Muthukumar, Member (A)

HC Bijender Kumar
S/O Shri Panna Lal Gupta
R/O B, 4/41D, Gaonri, Gali No. 5,
P.S. Mayapur, Shahdara, Delhi.

... Applicant

(By Advocate Sh. U. Srivastava)

Versus

1. The Additional Commissioner of Police
HQ A P & T Delhi Police,
Delhi.

2. The D.C.P.,
Vigilance, Delhi.

3. Dy. Commissioner of Police,
Bn. D.A.P., Delhi.

... Respondents

(By Advocate Sh. S. K. Gupta, learned proxy
counsel for Shri B. S. Gupta)

ORDER

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

The applicant has impugned the order passed by the respondents dated 11.8.97 (Annexure A-1) rejecting his appeal against the inclusion of his name in the Secret List of doubtful integrity by order dated 20.8.1996.

2. In the brief facts it is stated that the applicant while posted at PCR, was involved and arrested in^a case FIR No. 152/93 dated 25.3.93 under Section 353/186/34 IPC. Based on this, the respondents by order dated 20.8.96 had brought the applicant's name on the Secret List of doubtful integrity as per the provisions in the Standing Order 265 of 1989 w.e.f. 22.4.93. The applicant, however, submits that he has also filed a complaint PE under Sections 323/325/306/34/ IPC against certain persons, including police officials and the criminal court has also taken cognizance of this complaint. The relevant portion of the order dated 20.8.96 reads as follows:-

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"The name of H.C.Vigender Singh 242/PCR,11115/DAP has been brought on Secret List of doubtful integrity w.e.f. 22.4.93 for a period of till the finalization of Criminal case with the approval of DCP/Vigilance Delhi vide his office order No. 29062-63/Vig: CA dated 5.10.93 on the allegation that he was arrested in case FIR No.152 dated 25.3.93 U/S 353/186/34 IPC P.S. Bhajanpura, Delhi."

Against the above order the applicant had filed an appeal which has been rejected and has been assailed in the D.A.

3. Shri U.Srivastava, learned counsel for the applicant has been heard. He has also ^{filed} an MA 1013/98 for taking this case for hearing. Learned counsel submits that merely because the applicant's name has been placed in the Secret List of doubtful integrity it would not mean that his name should not be considered for promotion and thereafter kept in a sealed cover as per the Rules by the DPC. He has, therefore, submitted that even if the impugned order dated 11.8.97 is not quashed, the respondents cannot ignore the applicant's claim for consideration for promotion in accordance with the rules. He relies on the judgement of the Hon'ble Supreme Court in UOI Vs. K.V.Jankiraman (1991(2) Scale SC 423).

4. Shri S.K.Gupta, learned proxy counsel for the respondents has been heard and we have also perused the reply. He submits that the applicant's name has been brought on the Secret List of persons of doubtful integrity in accordance with Para 7(iii) of the Standing Order 265 dated 27.1.1989. He submits that since the criminal proceedings are still pending in the court, there is nothing wrong in the impugned order. He has further opposed the submissions made by the learned counsel for the applicant regarding consideration of the applicant for promotion on the ground that these averments are not made in the pleadings in the D.A. However, he submits that as per para 10(iii) of the aforesaid Standing Order, the effect of bringing the name of a person in the Secret List of doubtful integrity is that his promotion can be withheld. He, therefore, submits that the applicant is not entitled for any promotion so long as his name continues in the Secret List of

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persons of doubtful integrity.

☐ We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

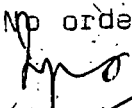
6. Having regard to the provisions of Para 7(iii) of Standing Order 265 of 1989, since admittedly a criminal case under FIR 152/93 is pending against the applicant, before the Criminal Court, we find no illegality in the order passed by the respondents.


7. As regards the question of consideration of the applicant's name for promotion, which was vehemently urged by Shri Srivastava, learned counsel, as rightly pointed out by Shri S.K.Gupta learned proxy counsel for the respondents, this ground has not been taken in the OA. However, it is noted that under Para 10(iii) of the aforesaid Standing Order, so long as the applicant's name exists in the Secret list of persons of doubtful integrity his promotion can be with-held. However, having regard to the judgment of the Supreme Court in Jankiraman's case (Supra) in case the respondents hold any selection for promotion in which applicant is also eligible for consideration, they may do in accordance with the relevant rules, including adoption of the sealed cover procedure.

8. In view of the fact that both the learned counsel have been heard in the OA, MA 1013/98 for granting interim order does not arise.

9. In the facts and circumstances of the case, we find no good ground justifying setting aside the impugned orders dated 11.8.98 and 20.8.96. Application accordingly fails and it is dismissed.

No order as to costs.


(K. Muthukumar)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

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