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Central Administrative Tribunal
Principal Bench
....

D.A. No. 2478/94

New Delhi, this the 24th day of Dec., 1995.

Hon'ble Shri B.K.Singh, Member (A)

Sita Ram Meena, (D/1016), son of
Shri Gopi Ram, resident of village
& Post Office, Niwana, P.S. Gobind Garh,
Distt. Jaipur (Rajasthan) presently
working as Sub-Inspector in Bomb Disposal
Squad (South) of Delhi Police.

..Applicant

(By Shri Shyam Babu, Advocate)

Versus

1. The Additional Commissioner of Police,
South District, Police Station,
Hauz Khas,
New Delhi- 110 016.
2. Additional Commissioner of Police,
(Southern Range), Police Headquarters,
I.P. Estate, New Delhi.

...Respondents

(By Shri Rajinder Pandita, Advocate)

O R D E R

By Hon'ble Shri B.K.Singh, Member (A)

This O.A. No. 2478/94 has been filed against the remarks communicated to the applicant vide Annexure-A of the paper book. The remarks are "that there is no complaint against his honesty and moral character and that he is impartial and sympathetic towards weaker sections of Society. His general power of control and organising ability, personality and initiative, power of command, preventive and detective ability, working experience of criminal law and procedure is average. His dealing with the public and accessibility

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12

to the public is good and has some interest in modernisation techniques of investigation and in modern police methods generally.

It is further mentioned that he is not very devoted to duty and is not very reliable."

The applicant had filed a representation against the above remarks for the period from 1.4.1991 to 31.3.1992. He also filed O.A. No. 116/93 before the Tribunal and the Tribunal vide Annexure-C of the paper book gave the following directions in para 5 which is the operative part of the Judgement:

"1. The applicant is directed to file a representation before the respondents within a period of one month from the date of communication of this order and the respondents after receiving a copy of the representation from the applicant within the stipulated time, shall dispose it of, within a period two months from the date of receipt of the representation giving specific instances and materials as per the instructions cited on the basis of which the adverse remark has been communicated to the applicant.

2.If the applicant is aggrieved, he is at liberty to approach this Tribunal".

As is evident from clause 2 of the above directions he was given the liberty to approach the Tribunal if he was still aggrieved by the decision of the respondents. Relief prayed for in the O.A. is to call for the records of the case and quash/set aside the impugned adverse A.C.R. for the period 1.4.1991 to 31.3.1992 (Annexure A) and the impugned appellate order as communicated by order dated 13.5.1994 (Annexure-B).

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On notice, the respondents filed the reply contesting the application and the grant of relief prayed for.

In the counter reply, the respondents have taken the plea that UOI is a necessary party which has not been impleaded and as such it is barred by non-joinder of a necessary party. It is true that the Police Administration vests with the Home Ministry which is the Nodal Ministry but since no officer of the Ministry is involved in recording of the remarks in the A.C.R. of the applicant as the reporting/reviewing or accepting authority, there is no necessity to implead them as a party. Ministry of Home Affairs is not concerned with these remarks.

In the counter reply, the respondents have practically reiterated what they had stated when the previous O.A. was filed which was heard and decided by the Tribunal. There is nothing new in these arguments and it is a mere reiteration of what was stated before the Tribunal in O.A. No. 1116/93. In compliance to the directions of the Tribunal, respondents have filed additional affidavit as Annexures R-I & R-II enclosed with the reply. Annexure R-I gives the adverse portion and Annexure R-II is a letter addressed by Deputy Commissioner of Police, Hq. (I) to Shri Alok Verma, DCP/South-District, New Delhi. In response to this letter on 24.2.1995, Shri S. Ramakrishanan, Addl. Commissioner of Police (Range), New Delhi has given the history and reasons for recording the remarks and for rejection of the representation.

14

Perusal of the additional affidavit filed by the respondents and also the counter reply to the Q.A. does not make any attempt to reconcile the inherent contradiction in the remarks. If there is no complaint against the honesty and moral character of a person and he is also found to be impartial and sympathetic towards the weaker sections of Society, the same person cannot be described as not very devoted to duty and not very reliable. Honesty is a very broad word and it encompasses within its ambit, fairness and righteousness in speech and act and sincerity in one's dealing with other and towards performance of duty also. If a person bears a good moral character, he cannot be described as not very reliable. An unreliable or untrust worthy person cannot be called honest and having a good moral character. Honesty of purpose will imply devotion to duty also. Honesty reflects itself in every sphere of one's character. It is reflected in the mental make up of a person, his behaviour towards others and his dealing with men and material in general. The word 'moral' has been derived from the Greek word 'Mores' which means ethos. Ethos reflects on the cultural milieu of a person and the Society in which he lives. If one bears a good moral character it means that he abides by the ethos evolved by the Society. Similarly, honesty also is a very broad word and it encompasses within itself the devotion to duty, dependability etc. The moment a person is described as not devoted to duty and not very reliable, the first part of the QR that there was no complaint against his honesty and moral character will become redundant. Not very devoted also will

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15

mean devoted. A person may be very devoted, may be extremely devoted to his work but once we use the word 'not' with 'very devoted' it will have an implication that he is devoted though the expectations are of a higher standard in respect of devotion to duty which he does not fulfil. Similarly the word not very reliable will also mean that he is reliable but not reliable upto the expectations of the reporting officer. A person may be extremely reliable, may be very reliable but the moment the word 'not' is added to very reliable it will denote that he is reliable. That he does not measure upto the expectations of the superior officers writing the A.C.R. is another matter. A person is either devoted or not devoted to duty, a person may be very devoted to duty but the word 'not very devoted' is incongruous. Similarly a person may be reliable or unreliable. A person can be very reliable or extremely reliable but the moment the word 'not' is added to 'very reliable' the effect of un-reliability, if any is marred. Integrity can be either sound or doubtful. A person can be reliable or un-reliable. There cannot be a yardstick for measuring reliability or devotion to duty. These remarks do not fit in with the first part of the remarks. If the first part is correct that there was no complaint against his honesty and moral character, the second portion that he was not very devoted to duty or not very reliable will have to be expunged, because these are not consistent with all words 'honesty and moral character' used in the first part. Honesty will include devotion to duty and reliability also. Moral character also will go to show that he fits in the ethos of the police administration and fits in that cultural milieu and, therefore, these

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16

two remarks cannot be sustained in the A.C.R. and these will have to be expunged. Except for expunging these remarks, all other portions which amount to personal impression and grading etc. will stand in the A.C.R. 'Average' is not an adverse remark and as such cannot be expunged and will remain ⁱⁿ the A.C.R. with all other adverse entries which by and large are good.

The reporting officer/reviewing officer/accepting officer have to be very careful in their choice of words when they write the A.C.Rs of any officer working under them. Thus, remarks 'Not very devoted to duty' or 'Not very reliable' are being directed to be expunged only because the choice of words are not proper and also that these remarks are a negation of honesty and moral character. Since there was no complaint against these two, there is no justification for retention of these two remarks which touch his integrity and therefore, cannot be sustained for want of concrete instances and also for being inconsistent with the remarks that there was no complaint against his honesty and moral character. If a person is absent from duty during the course of a surprise inspection, he exposes himself to disciplinary proceedings and respondents are well within their right to proceed against him departmentally and the additional affidavit shows that he has been censured on account of the habitual absentism from duty.

The application partly succeeds and is allowed and the adverse remarks 'Not very devoted to duty' and 'Not very reliable' are directed to be expunged.

In the circumstances, there will be no order as to costs.