

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1616/1994

New Delhi, this 31st day of May, 1995

Shri P.T.Thiruvengadam, Hon'ble Member(A)

S.I. Asha Rani
w/o Shri J. Sandhu
C-10, Police Colony
Sector XII, R.K.Puram, New Delhi-22 .. Applicant

By Smt. Meera Chhibber, Advocate

versus

1. Commissioner of Police
Police Hqrs., New Delhi
2. Addl. Commissioner of Police
Crime, Police Hqrs., New Delhi
3. Dy. Commissioner of Police
Crime (Women Cell), Nanakpura,
New Delhi .. Respondents

By Shri Surat Singh, Advocate

ORDER

The applicant was functioning as Sub-Inspector in Delhi Police. After working in Old Police Lines from 1973 to 1980, where she was made to do law and order duties and welfare activities and in Palam Airport from 1980 to 1990 where the nature of duties were frisking the passengers and checking of baggage, she was transferred in February, 1991 to the Crime Against Women Cell (CAW Cell). While working there, she was communicated adverse remarks for the period pertaining to 10.2.92 to 31.3.93, vide communication dated 23.8.93 (Annexure P/1). The adverse remarks communicated are as follows:

- (1) She has to improve her public dealings specially with the aggrieved party;
- (2) About her impartiality/objectivity can not say conclusively;
- (3) She has to improve her devotion to duty;
- (4) Her personality and initiative found satisfactory but she has to improve her physique;

(2)

(5) Her attitude is not progressive towards modernisation techniques of investigation; and

(6) Her overall assessment is below average. No achievement has come to notice regarding contribution towards developing police community relations.

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2. These adverse remarks written by the ACP concerned were accepted by the next higher officer, namely DCP(CAW Cell), who passed the following remarks: "I accept the assessment made by the reporting officer. The officer reported is new to investigation. Given time should be able to pick up work".

3. The applicant gave her representation on 22.9.93 against these adverse entries. The representation was rejected by the Addl. Commissioner of Police by the order dated 1.7.94 (Annexure P/2) with the following remarks:

"It is on record that during the period of 92-93, she worked under the supervision of ACP/Sita Ram from May 1992 to December 1992, therefore the recording officer was competent to record the report. During the period under report she was issued Show Cause Notice for Censure on 28.8.92 the same was confirmed on 24.5.93. She was also issued with a Show Cause Notice for Censure on 27.10.92 by another ACP Banwari Lal and the same was also confirmed on 18.11.92. Therefore, these two minor punishments during the period of report are good indicators of her indifferent work and conduct given by two different officers.

I find that recording officer has adversely commented about her work and conduct, her devotion towards duty, her public dealing, her physique, her lack of knowledge and interest in modern techniques of investigation and overall assessment being below average. This overall assessment of the reporting officer supported by reviewing officer is justified.

I have considered her pleas and also heard her in person. I find her written representation as well as oral contention devoid of merit. The representation is therefore rejected.

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4. This OA has been filed with a prayer for quashing the adverse remarks communicated vide letter dated 23.8.93 and the rejection letter dated 1.7.94. The other reliefs in the OA were not pressed at the time of final arguments.

5. The learned counsel for the applicant assailed the adverse remarks as well as the disposal of the representation on the following grounds.

(1) The representation had been rejected on 1.7.94 by the ACP stating that the applicant had been censured twice during the relevant period. Of these two censures, one of the censures was quashed by the appellate authority on 30.3.94. Thus, the rejection of the representation against adverse entries has been made without proper appreciation of the facts.

(2) The confidential report pertains to the period 19.2.92 to 31.3.93 and has been initiated by Shri S.R.Mongain, who was ACP (CAW) only for the period May, 1992 to December, 1992; for the remaining period, namely from 19.2.92 to May, 1992 and again from December, 1992 to 31.3.1993, one Smt. Arora was the ACP concerned. Yet, Smt. Arora has not been associated with the writing of the CR.

(3) No guidance had been given to the officer reported upon and no opportunity was given to her to improve.

(4) About the adverse remarks that the applicant has to improve her public dealings especially with the aggrieved party, it is the case of the applicant that there were never any complaints against her.

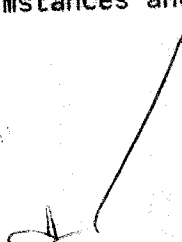
(5) Similarly with regard to the remarks that she has to improve her devotion to duty, no prewarnings have been given.

(6) On the remarks that the applicant has to improve her physique, it is the case of the applicant that she is above 40 years of age and had undergone 2 caesarian operations in 1988 and 1990 because of which there were metabolic changes. It is claimed that the applicant had been passing necessary physical tests.

(7) The remarks on her attitude towards modernisation techniques of investigation are without any basis since the revision officer himself had mentioned that the applicant is new to investigation and in addition the applicant had not been given any training in this regard.

(8) Overall assessment of "below average" is unwarranted in the circumstances and is affecting her promotional chances.

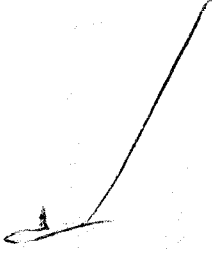
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6. Taking the grounds one by one, I note there is force in the argument that the authority which disposed of the representation has taken into account one case of ¹³ relating to show cause notice dated 20.8.92, which was subsequently quashed by the appellate authority. To that extent, the disposal of the representation would require reconsideration, ignoring the said censure.

7. It is also admitted that the applicant had worked under one more officer other than the one who initiated the confidential report for the relevant period. The other officer namely Smt. Arora was associated with the applicant for nearly 6 months and in all fairness Smt. Arora should have also been a party to the writing of the CR for the period from February, 92 to March, 1993/6 on the ground that no guidance had been given nor was there any warning, the respondents claim that the applicant had been given verbal guidance. Further, censure notices had been issued to her. Without going into the aspect of verbal guidance in view of the fact that censure notices were issued and atleast one of them was sustained, the ground regarding absence of prewarnings/guidance has to be rejected.

8. With regard to the adverse remarks that the applicant has to improve her public dealings, especially with the aggrieved party, the reply of the respondents only brings out that there were certain verbal complaints. No records have been produced to substantiate the case. Even the file containing the disposal of the representation has not been produced despite direction. In the circumstances, these remarks are directed to be expunged.



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9. The observation that the applicant has to improve her devotion to duty does not need any interference, since it is admitted that the applicant had been censured during the relevant period.

10. Similarly, the observation that the applicant's physique requires improvement can not be faulted since a person in police force should not only be physically fit but should preferably have a proper physique.

11. On the aspect of the applicant's attitude not being progressive towards modernization techniques of investigation, it is only a comment on mental attitude for a progressive change. Even if the applicant had been involved in the course of investigation for a relatively short time, an assessment of the attitude could be made.

12. Overall assessment would require review in view of the expunging of certain adverse remarks and also the authority which disposed of such representation had done so by taking into account one of the censures which had already been expunged by that time.

13. In the circumstances, the following directions are given:

- 1) The adverse remark that the applicant has to improve her public dealings especially with the aggrieved party is directed to ^{be} expunged;

2) The order of disposal of representation dated 1.7.94 is quashed and the authority concerned is directed to reconsider the representation by ignoring one of the censures which had already been expunged by that time. Such authority should also seek the remarks of Smt. Arora under whom the applicant had worked for about six months during the relevant period. This authority should specifically reconsider the grading for overall assessment.

3) In the light of the above, the representation of the applicant should be reviewed and the results conveyed to the applicant within a period of 3 months from the date of receipt of a copy of this order.

The OA is disposed of with the above directions. No costs.

P. J. Thiruvengadam
30/5/95
(P.T.Thiruvengadam)
Member(A)

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