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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2202 of 2000

New Delhi, this the 25th day of May, 2001

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

A.S.I. (Stenographer) Anil Kumar Dubey
No. 4823/D S/o Shri Janardan Dubey
R/o A-227/14, South Gamari Post Seelam Pur
Gali No. 13, Delhi-53 employed in Delhi Police and
presently posted as P.A. to D.C.P.
C.R.O.C & R Unit, PHQ, Delhi

-APPLICANT

(Appeared in person)

Versus

1. The Commissioner of Police
Police Headquarters, New Delhi-2
2. Jt. Commissioner of Police, Northern Range
Police Headquarters, 5th Floor, New Delhi
3. Shri Muktesh Chander
(the then Addl. DCP/Central Distt.)
Now DCP/P.M. Security
Security Unit, Delhi Police

-RESPONDENTS

(By Advocate: Shri George Paracken)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Judl)

Applicant is aggrieved of recording of adverse remarks in his Confidential Report. He has filed this OA seeking quashing of the adverse remarks in his C.R. for the period 1.4.98 to 20.8.98. Before filing this O.A., he had preferred an appeal which was rejected. He has impugned the same order. The adverse remarks which had been recorded in his C.R. for the period 1.4.98 to 20.8.98 are reproduced below:

"Nothing adverse. He is in habit of giving complaints against his seniors."

2. In his OA, applicant has alleged that he had never made a complaint against his seniors. On 21.3.98,

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in compliance with the orders of Respondent 3 to open the office next day, when the applicant asked Const. Shamsher Singh to open the office, the said Constable Shamsher Singh not only refused to obey but also used the language which could not have been tolerated by any respectable person. Therefore, the applicant made a D.D. entry in the Roznamacha of P.S. Daryaganj on the advice of respondent no.3 himself about the misbehaviour of the said Constable. The applicant submits that if there was any complaint made by him, that was against the Constable Shamsher Singh in respect of incident which took place on 21.3.98 which is not within the period for which adverse remarks had been communicated to him.

3. Second ground taken by the applicant is that complaint made by him was against a subordinate and not against any senior whereas the adverse remarks recorded in his C.R. pertaining to period 1.4.98 to 20.8.98, read that "he is in habit of giving complaints against his seniors." Applicant states that he has never made a complaint against his seniors. This fact he had mentioned in his appeal also to the appellate authority.

4. Respondents in their counter have also referred to incident dated 21.3.98 whereby the applicant is alleged to have recorded a D.D. entry in respect of event that took place in the office of respondent no.3. Learned counsel for the respondent submitted that instead of informing his superiors about the incident, the applicant had straightaway gone to the Police Station and lodged a DD entry there and this conduct itself shows that the adverse entry has been appropriately made in his

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C.R. for the period 1.4.98 to 20.8.98. Shri Paracken submitted that applicant had been given an oral hearing also before passing the appellate order and that there is no violation of principles of natural justice.

5. To my mind, the submissions made by respondents in their counter are self-contradictory because first of all the incident on which the respondents have relied upon heavily with regard to misconduct of the applicant, is admittedly of 21.3.98 whereas the adverse remarks recorded in his C.R. pertain to the period 1.4.98 to 20.8.98. In respect of an incident that took place on 21.3.98, adverse remarks could not have been incorporated in the C.R. for the period 1.4.98 to 20.8.98 which has been reported upon by the Addl.DCP. When I asked Shri George Paracken to show to court even a single complaint made by the applicant against his seniors. Learned counsel was unable to produce even a single complaint.

6. Under these circumstances, I am of the opinion that the remarks made by the reporting officer in the C.R. of the applicant pertaining to period 1.4.98 to 20.8.98 are without any basis. Probably the appellate authority had also ignored this fact.

7. In the result, I allow this O.A. with a direction to respondents to expunge the adverse remarks made in the applicant's C.R. pertaining to period 1.4.98 to 20.8.98. In respect of applicant's prayer that because of adverse remarks, his confirmation had been delayed, I direct the respondents to consider

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confirmation of the applicant w.e.f. 10.6.99 and while doing so, they shall not take into account adverse remarks contained in applicant's C.R. for the period 1.4.98 to 20.8.98.

8. The above directions should be implemented within a period of three months from the date of receipt of a copy of this order. No costs.


(KULDIP SINGH)
MEMBER(JUDL)

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