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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No.271 of 1989

New Delhi this the 6th day of April, 1994

Mr. Justice S.K. Dhaon, Vice-Chairman
Mr. B.K. Singh, Member

Shri Narinder Singh
R/o Village & Post Office Karala,
Delhi-110081.

...Applicant

By Advocate Shri D.C. Vohra

Versus

1. The Union of India,
Through the Secretary,
Ministry of Home Affairs,
South Block,
New Delhi.
2. The Commissioner of Police,
Delhi Police,
Police Head Quarter,
I.P. Estate,
New Delhi.
3. Shri Mansoor Ali Sayed,
Additional Commissioner of Police,
(South District),
Delhi Police,
I.P. Estate,
New Delhi. Respondents

By Advocate Ms. Ashoka Jain

ORDER (ORAL)

Mr. Justice S.K. Dhaon, Vice-Chairman

The applicant, a Constable in the Delhi Police challenges the legality of the order dated 03.03.1988 passed by the Additional Deputy Commissioner of Police in the purported exercise of power under sub-rule(1) of Rule 5 of the Central Civil Service (Temporary Service) Rules, 1965.

2. The scheme of Rule 5 of the Delhi Police (Appointment & Recruitment) Rules, 1980, as relevant, is this. All direct appointments shall be made initially on purely temporary basis. All employees appointed to the Delhi Police shall be on probation for a period of two years. This period is extendable but the extension shall not exceed the period of 3 years of probation in all. After successful completion of period of probation, the employee shall be confirmed in the Delhi Police by the competent authority, subject to the availability of permanent post. The rule,

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therefore, expressly excludes the application of theory of automatic confirmation. A positive order of confirmation is contemplated. Admittedly, in the present case, no order confirming the applicant was ever passed. Therefore, he continued to be temporary all through.

3. It is not disputed before us that the Central Civil Service (Temporary Service) Rules, 1965, are ~~not~~ applicable to the members of the Delhi Police. This position is clarified by a Notification issued on 17.12.1980 by the Administrator whereby he applied no less than 22 rules applicable to the Central Government servants. The Central Civil Service (Temporary Service) Rules, 1965, is found to be at Serial No.21 of this Notification.

4. It is contended on behalf of the applicant that the foundation of the impugned order is the proceeding initiated by the respondents for giving a censure entry to the applicant. Assuming this contention to be correct, no illegality has been committed insofar as on 23.11.1987, the applicant was given a show cause notice to explain his conduct. He was also required to appear before the Additional Commissioner of Police in his O.R. immediately after submitting his reply to the show cause notice. Annexure-B to the O.A. is the photostat copy of the explanation offered by the applicant to the said show cause notice. Therefore, the authority concerned before passing the impugned order fully conformed to the requirements of the principles of natural justice.

5. Rule 5 of the Delhi Police (Punishment & Appeal) Rules, 1980 prescribes censure as one of the penalties which can be imposed upon a member of the Police Force in Delhi. Rule 6 says that censure shall be considered to be a minor punishment and may be awarded by the authority concerned after serving a show cause notice giving reasonable time to the defaulter while considering his written reply

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as well as oral deposition, if any, for which opportunity shall be afforded on request. Rule 8(2)(f) provides that the punishment of censure shall be supported by a formal order in the order book and shall not be awarded unless the officer concerned has been given an opportunity to explain his conduct in the manner prescribed in Rule 6. The respondents, therefore, fully complied with Rules 6 and 8.

6. In the counter-affidavit filed on behalf of the respondents, duly sworn by the Additional Commissioner of Police, the material averments are these. The applicant was given no less than 15 punishments which are catalogued in the counter-affidavit. The case of the applicant for being made quasi-permanent was considered on numerous occasion and on each occasion he was found unfit. The competent authority, therefore, came to the conclusion that the applicant was not fit to be retained in the Delhi Police. That is how the impugned order was passed.

7. We find no substance in this application and the same is dismissed but without any order as to costs.


(B.K. SINGH)
MEMBER (A)


(S.K. DHAON)
VICE CHAIRMAN

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