

17

In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.298/89

Date of decision: 15.02.1993.

Shri R.C. Garg

...Petitioner

Versus

Union of India

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

Shri S.C. Luthra, with Shri
O.P. Khokha, Counsel.

For the respondents

Ms. Anjana Gosain, Counsel.

Judgement(Oral)

The case of the petitioner in brief is that he was posted as Station House Officer, Police Station, Shakarpur from September 17, 1986 till 23.4.1987. He was given adverse confidential report grading him 'C' for the period from 19.9.1986 to 31.3.1987. The said report was written on him on 13.6.1987 and was communicated to him vide letter dated 22.6.1987 which was received by the petitioner on 6.7.1987. Aggrieved by the adverse remarks on him in the A.C.R. the petitioner filed this Application under Section 19 of the Administrative Tribunals Act, 1985. Shri S.C. Luthra, learned counsel for the petitioner submitted that the adverse report communicated to the petitioner is not in the prescribed form but is in the form of running commentary. The report should have been written in the prescribed proforma and remark given in each column as prescribed in the format.

2. His second contention is that according to rule 13.17 of Punjab Police Rules, A.C.R. is required to be written within one month from the closing of the period.

2

In this case report should have been written during the period ending on 30.4.1987 and the adverse remakrs, if any, conveyed to the petitioner within 15 days thereafter. Instead, the adverse report was communicated to him on 4.8.1987.

3. The petitioner filed a detailed representation against the said adverse remarks on 4.8.1987 which was rejected by the competent authority vide order dated 9.2.1988 without giving any reasons for the rejection and without referring to the grounds which the petitioner had taken in the representation. The learned counsel further submitted that the performance of the petitioner during the period of the report was comparatively better than the performance of his predecessor in the corresponding previous period. He relied on the data furnished in the Annexures 2, 3 and 4 (pages 39-41 of the paperbook) which according to him form Annexures to the representation of the petitioner. There are, however, no Annexures with the said representation.

4. Ms. Anjana Gosain, the learned counsel who appeared for the respondents repelled the arguments of the learned counsel for the petitioner and produced the original confidential report for perusal of the Court. It is observed that the A.C.R. is written in the prescribed proforma. There are detailed general remarks relating to his overall performance and what has been conveyed to the petitioner is a summary of the various remarks given in the columns 1-16 besides the general remarks which contain the overall assessment of the performance of the petitioner during the said period. The learned counsel for the respondents further submitted that the confidential report was written in accordance with Rule 13.17 of Punjab Police Rules on the prescribed proforma on 13.6.1987. It was conveyed to the

petitioner within 15 days from the date the report was written. As far as the overall performance of the petitioner is concerned, the learned counsel referred to the internal page 17 of the counter-affidavit. The relevant portion of the counter-affidavit is reproduced hereunder:-

"That the administration of the Police Station was weak in many respect was borne out by many verbal and written communications to the applicant in this regard. Some of them are enumerated below:-

i) Notice for explanation vide No.738-39/PA-DCP-E dt.9.10.86.

ii) Advisory memo vide No.1030-31/PA-DCP-E dated 23.10.86.

iii) Explanation notice vide DCP/E office No.1032-36/PA-DCP-E dated 23.10.86.

iv) Explanation notice vide DCP/E office No.10771/PA-DCP/E dated 19.12.86.

v) U.O.No.2709-10/SIP-E dated 16.12.86 by Addl.DCP/E.

vi) Explanation notice issued vide DCP/E office No.2245-46/HAP/E dt. 8.12.86.

vii) Show Cause Notice for Censure issued vide NO.795-96/HAP-E, dt.10.2.87.

viii) Explanation notice issued vide No.738-39/HAP-E dt. 9.10.86.

ix) Advisory memo issued vide No.1040-41/PA-DCP-E dt.2.3.87.

x) Show Cause Notice No.1212-13/HAP-E dt.2.3.87.

xi) Advisory memo dated 14.3.87 issued vide No.1130-31/DCP-East refers.

xii) Explanation notice issued vide No.1166-68 PA-DCP-East 25.3.87.

xiii) U.O. No.1589/ACP-Gandhi Nagar, dated 11.4.87 issued to the applicant and copy endorsed to DCP.

xiv) U.O. No.1307-8/PA-DCP-E dated 18.4.87 addressed to ACP/Gandhi Nagar, with copy to the applicant.

xv) Inspection note of C.P. Delhi issued vide PHQ's NO.10631-10771/C&T AC-I dt. 24.4.87.

xvi) Inspection note in Register No.13 of P.S. Shakarpur by DCP/E dated 25.9.86, 21.10.86, 19.3.87 and 29.3.87.

2

xvii) Inspection note in register No.13 by Addl DCP/E dated 23.9.86 & 27.1.87.

xviii) Inspection notes of ACP/Gandhi Nagar in Register No.13 dated 11.10.86, 11.11.86 and 25.11.86.

It was clear that the applicant had very lax control over his subordinates, his supervision, both of investigative and administrative work, was weak and he made little effort to improve in these matters."

5. It is observed from the above that the petitioner was served notices/written memoranda during the period in addition to the verbal instructions. All these advisory memoranda were duly acknowledged by the petitioner under his signatures according to Ms. Anjana Gosain, learned counsel for the respondents. The learned counsel further submitted that there is no specific denial that he had not received these written memoranda in the rejoinder filed by the petitioner although full details are given in the counter-affidavit. Referring to the Grading 'C' given to the petitioner in the A.C.R. Shri Luthra, learned counsel for the petitioner had averred that Grading 'C' can be given only to those officers who are to be passed over for promotion or against whom departmental action is to be taken on general grounds of inefficiency or unsatisfactory conduct in accordance with Rule 13.17 of Punjab Police Rules. This contention was, however, contested by the learned counsel for the respondents who submitted that 'departmental action is follow up action on the A.C.R. Further the said rule does not say that Grading 'C' cannot be given to an officer who is found to be inefficient or whose performance is considered to be unsatisfactory.

6. I have heard the learned counsel for both the parties and considered the matter carefully. As adverted to earlier the confidential report of the petitioner was written in accordance with Rule 13.17 of Punjab Police Rules in the

20

prescribed proforma. The petitioner has been communicated a general summary of the remarks together with the detailed general remarks. There can be no dispute about the fact that the petitioner was graded 'C' in the A.C.R. The rule does not prohibit giving 'C' Grade to an officer against whom disciplinary action is not taken. If the contention of the learned counsel for the petitioner is accepted then the petitioner could only be graded as 'B' which means that he is fit for promotion in his normal turn. This is neither the intention of the rule nor this position can be maintained period of A.C.R. on any valid ground, keeping in view advisory memoranda served on him during the

7. The next argument adduced by the learned counsel for the petitioner was that although the petitioner has filed a detailed representation, taking several grounds, none of these grounds were referred to or commented upon by the competent authority. The representation on the other hand was rejected by a cryptic order which reads as under:-

"Inspector Ramesh Chand Garg No.1 784 Group informed that his representation dated 2.8.1987 against the adverse remarks in his ACR for the period from 19.9.86 to 31.3.87 has been considered by the CP, Delhi and rejected."

8. In **Union of India v. E.G. Nambudiri AIR 1991 SC 1216** the Supreme Court has observed that:-

There is no dispute that there is no rule or administrative order for recording reasons in rejecting a representation. In the absence of any statutory rule or statutory instructions requiring the the competent authority to record reasons in rejecting a representation made by a government servant against the adverse entries

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122

the competent authority is not under any obligation to record reason. But the competent authority has no licence to act arbitrarily, he must act in a fair and just manner. He is required to consider the questions raised by the Government servant and examine the same, in the light of the comments made by the officer awarding the adverse entries and the officer countersigning the same. If the representation is rejected after its consideration in a fair and just manner, the order of rejection would not be rendered illegal merely on the ground of absence of reasons. In the absence of any statutory or administrative provision requiring the competent authority to record reasons or to communicate reasons, no exception can be taken to the order rejecting representation merely on the ground of absence of reasons. No order of an administrative authority communicating its decision is rendered illegal on the ground of absence of reasons ex facie and it is not open to the court to interfere with such orders merely on the ground of absence of any reasons.

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It is nobodys case, if there is arbitrariness or any other perversity on which the A.C.R. has been grounded, nor have any allegations been made and substantiated in the original application in this behalf. The A.C.R. cannot, therefore, be branded as illegal merely because the detailed reasons for rejection of the

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representation have not been given.

In view of the above facts and circumstances there is no ground for me to interfere with the matter. The O.A. is accordingly dismissed. No costs.

Delhi
(I.K. RASGOTRA)

MEMBER (A)

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