

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 1031/1989

Date of decision: 22.01.1993.

Shri Hari Singh

...Applicant

Versus

Lt. Governor of Delhi & Others

...Respondents

For the Applicant.

...Shri Shanker Raju,  
Counsel

For the Respondents

...Ms. Ashoka Jain,  
Counsel

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporters or not?

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,  
Vice Chairman(J))

We have gone through the records of the case carefully and have heard the learned counsel for both parties. The grievance of the applicant who has worked as Sub Inspector in the Delhi Police relates to the impugned order dated 22.8.1988 whereby the respondents have compulsorily retire him from service by invoking the power under Rule 56(j) of the Fundamental Rules or Rule 48

of the CCS (Pension) Rules, 1972. The impugned order reads as follows:-

"Whereas the Additional Commissioner of Police(R) Delhi (appropriate authority) is of the opinion that it is in the public interests to do so;

Now therefore, in exercise of the powers conferred by clause j(ii) of Rule 56 of the Fundamental Rules or 48 of the Central Civil Services (Pension) Rules, 1972, the Additional Commissioner of Police (R) Delhi (appropriate authority) hereby retires Shri Hari Singh SI No.851/D with immediate effect, he having already attained the age of 55 years or having qualifying completed 30 years of service/30 years of service qualifying for pension on 22.8.1988. Shri Hari Singh, SI No.851/D shall be paid a sum equivalent to the amount of his pay plus allowances for a period of three months calculated at the same rate at which he was drawing them immediately before his retirement".

2. The applicant joined the Delhi Police as Constable in 1951. He was promoted as Head Constable in 1955, as Assistant Sub Inspector in 1971 and as Sub Inspector in 1975. He was placed under suspension in 1977 for allegedly committing irregularities in the investigation of case FIR No.527 dated 22.09.1977 under Section 420/511/120B IPC, P.S. Original Road. The impugned order of compulsory retirement was passed while the applicant was placed under suspension. The criminal case brought against him ended in his acquittal by judgment dated 16.12.1988 delivered by the Court of Additional Chief Metropolitan Magistrate, Delhi. Thereafter, the applicant made a representation to the Commissioner of Police on 9.1.1989. On 8.2.1989, he

✓

was informed that his representation had been sent to the Joint Secretary(Home) Delhi Administration for decision and that he might pursue the matter in Delhi Administration. He has not heard anything further from the respondents.

3. The respondents have stated in their counter-affidavit that the applicant had earned 24 commendation cards-certificates during his service. He was also awarded a censure in 1956 and another censure in 1976.

4. We have perused the Minutes of the meetings of the Review Committee held on 14.7.1988 and 26.7.1988 from which it is seen that the said committee recommended compulsory retirement of the applicant "in view of the indifferent records of service". The two censures imposed on him in 1956 and 1976 and the pendency of the criminal case against the applicant are the sole basis for reaching the above conclusion. The criminal case ended in his acquittal within a period of four months from the date of passing of the impugned order dated 22.08.1988. After the final censure was imposed on the applicant, he had earned two promotions as Assistant Sub Inspector and Sub Inspector.

5. In the conspectus of the facts and circumstances of the case, we are of the opinion that the impugned order of compulsory retirement dated 22.08.1988 is not legally sustainable and we set aside and quash the same. The respondents are directed to reinstate the applicant in

service as Sub Inspector expeditiously and preferably within a period of three months from the date of communication of this order. In the facts and circumstances of the case, we direct that he shall be paid 50% of the pay and allowances from 22.08.1988 to the date of reinstatement. The respondents shall also pass appropriate orders regarding the pay and allowances of the applicant during the period of his suspension from 5.10.1977 to 22.08.1988 in accordance with the relevant rules and in the light of the judgment of the criminal court, mentioned above.

There will be no order as to costs.

*B.N. Dholiyal*  
(B.N. DHOUDIYAL) 24/1/93  
MEMBER (A)  
22.01.1993

*22/1/93*  
(P.K. KARTHA)  
VICE CHAIRMAN (J)  
22.01.1993

RKS  
220193