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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
PRINCIPAL BENCH,  
NEW DELHI.  
\* \* \* \*

Date of Decision: 12.08.92.

OA 925/88

A.K. CHHABRA

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

THE HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicant

... SHRI MADHAV PANIKAR.

For the Respondents

... SHRI A.K. BEHRA  
proxy counsel for  
SHRI P.H. RAMCHANDANI.

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

JUDGEMENT (ORAL)  
(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J)).

The applicant is Additional Collector, Central Excise and Customs, North U.P. Collectorate, Meerut, filed this application aggrieved by the remarks given to him in his Annual Confidential Roll for the period from 1.1.86 to 31.12.86. The applicant, in this application has prayed that the said adverse remarks made in the Confidential Report be quashed.

The applicant made representations against this adverse remarks and even a memorial to the

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...2.

President but ultimately the following adverse remarks was retained for the period under review by the order dated 18.11.87:-

"He had to be shifted from Allahabad on complaints from the Collector that he was not contributing in the running of a good administration."

The applicant in the application has taken a number of grounds that there is nothing to substantiate this fact nor during his posting under the Reporting Officer he was ever communicated anything verbally or in writing that his working while he remain at Allahabad was not helpful in better running of the administration of Allahabad Custom Collectorate.

The respondents have contested this application and stated that the applicant has been transferred from Allahabad as the liasen between the applicant and the Customs Collector at Allahabad was not appreciable and the equalisation between them were not giving effective result in the functioning of the Allahabad Customs Collectorate. The applicant, therefore, was shifted to Meerut Collectorate in October, 1986. The respondents, of course, have filed a short reply but alongwith reply no document has been

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annexed nor mentioned in the counter on the basis of which reporting officer has <sup>formed</sup> ~~found~~ an opinion that the applicant was not helpful in effective running of the Customs Collectorate at Allahabad and further his transfer was on the basis of the complaint from the Customs Collector Allahabad. 6

However, it shall not be proper now to go deep in the matter to adjudicate upon the writing of the aforesaid remarks in the Annual Confidential Roll of the applicant because the applicant has already been promoted as Collector of Customs w.e.f. 5.4.90 and is functioning as such. It appears that the said report in the Annual Confidential Report of the applicant was not treated to effect promotion of the applicant which has taken place within 5 years of the said remarks. In view of the decision of the Hon'ble Supreme Court in Baidyanath Mahapatra Vs. State of Orissa & Anr. (1989 (3) SC 360) Judgement today, the Hon'ble Supreme Court in para 5 of the reports at Page 364 held as follows:-

"When a Government servant is promoted to a higher post on the basis of merit and selection, adverse entries if any contained in his service record lose their significance and those remain on record as part of past history. It would be unjust to curtail the service career of Government servant on the basis of those entries in the absence of any significant fall in his performance after his promotion."

Considering all these facts and going to the nature of the remarks retained now in the Annual

Confidential Report of the applicant I do not find that the remarks can be treated as adverse to the applicant when he had already been promoted to the Customs Collector. The learned counsel for the respondents also ~~stated that~~ <sup>conceded that</sup> to some extent ~~that~~ <sup>adverse</sup> to the proposition of law that when promotion was effected the remarks, if at all, <sup>which</sup> could have effected the promotion, cannot be treated as adverse.

Taking all these facts into account, the application is disposed of in the following manner that the remarks in question in the Annual Confidential Report of the applicant for the period 1.1.86 to 31.12.86 <sup>as +</sup> ~~are~~ produced in the earlier part of the judgement should not be treated as adverse to the applicant.

In the circumstances, the parties are left to bear their own costs.

*J. P. Sharma*

( J.P. SHARMA )  
MEMBER (J)  
12.08.92