

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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O.A.NO. 1979/90

Date of Decision: 08.01.1993.

SHRI VED PRAKASH

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APPLICANT

VERSUS

DELHI ADMINISTRATION & ORS.....

RESPONDENTS

CORAM:-

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

COUNSEL FOR THE APPLICANT : SH. V.P. SHARMA

COUNSEL FOR THE RESPONDENTS : MS. GEETA LUTHRA

1. Whether reporters of local papers may be allowed to see the Judgement? JK
2. To be referred to the reporter or not? JS

JUDGEMENT

(Delivered by Hon'ble Sh. J.P. Sharma, Member(J)).

The applicant who was working as Head Constable in the 3rd. Bn. DAP Delhi was served with adverse Annual Confidential Report for the period from 1.4.1987 to 27.2.1988 conveyed to him vide order dated 20.6.1988 (Annexure A-I). This remark was reviewed by the Reviewing Officer who agreed with the Reporting Officer. The applicant made representation against the same (Annexure A-2) and the Additional Commissioner of Police rejected the same by the order dated 22.9.1989 (Annexure A-3). The applicant filed the representation against the same to the Commissioner of Police, Delhi by which he was

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informed that he can submit a memorial to the President of India as no appeal lies against the rejection vide order dated 1.11.1989 (Annexure A-5). Aggrieved by the same, the applicant filed the present application under Section 19 of the Administrative Tribunals Act, 1985 on 21.9.1990.

2. The applicant has prayed for quashing the impugned orders of adverse remarks dated 20.6.1988, the appellate order dt. 22.9.1989 and quashing the entries recorded in his character role. Sh. P.K. Chaudhary, A.C.P./ADJUT.Xth Bn. DAP since retired is the Reporting Officer and Sh. Kewal Singh, Dy.Commissioner of Police Xth Bn. DAP Delhi is the Reviewing Officer. The Reporting Officer has commented that he is a unionist type of man. He man-handled one Inspector of this Bn. alongwith his other colleagues. He was censured twice vide order dated 15.12.1987 and 5.4.1988. Further he has not taken interest in his work. He was not recommended for promotion to the post of A.S.I. and over-all assessment of his work and conduct during the period has remained very poor and A.C.R. has been categorised as 'C'. The contention of the learned counsel for the applicant is that the adverse remarks given to the applicant are not based on actual

performance of the applicant during the period under review. The remarks given to the applicant were not detailed one to give an idea to the applicant about his inefficiency. It is also argued that his representation has been disposed of without any speaking order.

3. The respondents contested this application on the basis of the record. The learned counsel for the respondents argued that the maintenance of the prescribed register (daily despatch, files, noting and drafting) was judged as poor. He was also found shabily dressed and without hair cut. The turn out of the applicant was also not up-to the standard which amounted to grave negligence, careless ness and dereliction in the discharge of the official duties and was issued a show cause notice for censure vide order dt. 7.10.1987. He gave a explanation but that was not satisfactory and his conduct was censured. The second notice was given to the applicant on 14.11.1987 and he misbehaved and manhandled Inspector Dharam Chand of the Bn. when he was reprimanded for absenting himself from duty without obtaining permission. He was also awarded the second censure since the conduct was found undisciplined. Thus according to the respondents, the applicant has no case.

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4. I have considered the rival contention of the parties and also perused the departmental record produced by the respondents for the conclusion of the hearing. The original entries in the personal file was to show that the applicant has been issued memos to mend his ways and he was informed during the period under review to be more efficient and behave himself in a disciplined manner. The assessment of a person for the work done during the period by the superior has to be judged objectively. In the present case, the applicant while posted in 10th Bn. DAP has not discharged his duties to the satisfaction of his superior and the applicant was censured twice during the period under review by the A.C.P. Sh. Prem Kishan Chaudhary. Sh. Kewal Singh, Dy. Commissioner of Police also agreed with the views expressed by the Reporting Officer about the work and conduct of the applicant. The Tribunal cannot sit in judgement ^{over} ~~nor~~ these officers when in fact there is material on record to justify the remarks given to the applicant. The basis taken by the learned counsel for the applicant for expunging the remark does not hold any ground. The contention of the learned counsel for the applicant is that the applicant was posted in Xth Bn. after passing the training.

on 27.6.1987, the applicant has worked during this period from 7.12.1987 to 27.2.1988 when two A.S.Is. designated as HAG(1) and HAG(II) and once H.C.(Min.) were transferred from General Branch and carried out the solely by shouldering responsibility and showing high sence devotion to duty. This fact is not controverted in the counter filed by the respondents but it is stated that the applicant's performance and conduct was observed as poor by the seniors and he was censured twice. In the rejoinder filed, the applicant has not denied that he has been censured twice for his conduct during the period under review. A perusal of the personal file of the applicant goes to show that the applicant has also been average remarks regarding maintenance of certain registeres.

5. The learned counsel for the applicant also argues that the representation of the applicant against the adverse remarks has been dismissed by the Additional Commissioner of Police without a speaking order. In the case of U.O.I. Vs. E.G. Nambour reported in 1991(2) SCR P.675. The Hon'ble Supreme Court has a occasion to consider a matter against the adverse remarks. It is held by their Lordships that it is not necessary that a speaking order be passed when the said adverse remarks were quashed

before the competent court then the respondents' have to come out with the reasons for such remarks. In the present case, the respondents' have clearly stated in their counter that the applicant has been issued memos for the period under review and has also been censured on account of his conduct unbecoming a government servant of Police Force. Though the rejection of the representation is not by a speaking order but the conclusion to which the Additional Commissioner of Police has arrived at cannot be said to be arbitrary or unjust. The personal file itself speaks about the conduct of the applicant. The relations with the fellow colleagues were not cordial and his performance was poor and he was not taking interest in the work. Though the applicant has given explanation in his representation but he has not denied the issue of show cause notice to him and that he has also been censured and that his explanation was not found satisfactory. The applicant has not challenged these adverse orders passed against him either before the Higher Administrative Authority or before any Competent Court.

6. In the view of the above facts and

circumstances, the present application is totally devoid of merit and is dismissed, leaving the parties to bear their own costs.

J.P. Sharma
(J.P. SHARMA)
MEMBER(J)

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