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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

DA 2049/1990

New Delhi, this 29th day of March, 1995.

Hon'ble Shri Justice S.C. Mathur, Chairman
Hon'ble Shri P.T.Thiruvengadam, Member (A)

Shri Jagtar Singh
s/o late Sardar Gulwant Singh
6038, Block No.2, Street No.4
Dev Nagar, Karol Bagh
New Delhi-110 005

.. Applicant

By Shri B.S. Charya, Advocate

Versus

Union of India, through

1. Commissioner of Police
Delhi Police
Police Hqrs., MSO Building
IP Estate, New Delhi-2

2. Secretary
Ministry of Home Affairs
North Block, New Delhi

3. The Dy. Commissioner of Police
Police Control Room
3rd Floor, MSO Building
IP Estate, New Delhi-2

.. Respondents

By Shri Rajinder Pandita, Advocate

D R D E R (Oral)

Shri Justice S.C. Mathur

In this application, the applicant who was working as Assistant Sub-Inspector in the Delhi Police has challenged the compulsory retirement order dated 5th September, 1990. The order has been challenged on the following grounds:

- (1) The Screening Committee and the Review Committee had not considered the commendation certificates before issuance of the order;
- (2) The said Committees had taken into consideration the adverse entries recorded prior to five years from the date of compulsory retirement;
- (3) The Committees had not considered the entries recorded in the character rolls within the last five years; and

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(4) All the columns of the proforma on which the Screening Committee and the Review Committee had submitted the report had not been filled.

2. On behalf of the respondents, reply has been filed contesting the grounds raised by the applicant. It has been stated that the record of service of the applicant is bad and on consideration of the entire record, recommendation was made for his compulsory retirement. The punishment awarded to the applicant has been indicated and it is mentioned that the applicant was an officer of doubtful integrity.

3. The law on the subject of compulsory retirement has been clearly laid down by the Supreme Court in Shri Baikuntha Nath Das & Anr. Vs. Chief District Medical Officer, Baripada & Anr. JT 1992(2)SC 1. It has been held in this case that the order of compulsory retirement has to be passed on the subjective satisfaction of the Government that it is in public interest to do so. It has also been held that the order of compulsory retirement is not a punishment. It is in the background of this law that we have to consider the validity of the challenge.

4. The learned counsel for the respondents produced before us the minutes of the Review Committee, which had considered the officers for compulsory retirement including the applicant. In respect of the applicant, it is recorded that his name exists on the secret list of officers of doubtful integrity. Thereafter, the adverse entries existing in the record have been pointed out as follows:

- (i) Censured by DCP/Central for gross misconduct vide order dated 24.9.84;
- (ii) Four years service forfeited temporarily by DCP/C for gross misconduct by order dated 8.10.85;
- (iii) One year approved service forfeited permanently by Addl. CP(R) Delhi by order dated 5.3.86; and
- (iv) Censured by DCP/C for misconduct vide order dated 30.7.85.

5. The learned counsel for the applicant has submitted that the punishment mentioned at Sl.No.(iii) had been altered by this Tribunal in its judgement dated 19.2.92 in DA 544/86, to censure only.

6. The learned counsel has placed before us a copy of the judgement of the Tribunal. The Review Committee met on 23.8.90 and 31.8.90, prior to the decision in the DA. Obviously, the alteration in the punishment had not come into existence at the time the applicant's case was considered for compulsory retirement. Be that as it may, the Tribunal has not exonerated the applicant of the allegation of misconduct levelled against him. The charge levelled against the applicant has been reproduced in the judgement of the Tribunal from which it is apparent accepting that the applicant was charged with/illegal gratification. This judgement is sufficient to justify the statement made by the Review Committee that applicant's name exists in the secret list of officers of doubtful integrity. In our opinion, the action of the respondents can not be termed as arbitrary when it is based on the consideration of Officers of his name being found in the secret list of doubtful integrity. It is of utmost importance that in Police service the officer's integrity should be beyond doubt.

7. The learned counsel for the applicant has cited 1994(69)FLR-832 in support of his plea that an order of compulsory retirement cannot be made arbitrarily. It is true that the order of retirement cannot be passed arbitrarily if there is no adverse entry in the record of the Government servant. In this case there was a solitary adverse entry and their Lordships expressed reservation about it. Once this entry was wiped off there was no adverse entry. It was on these facts that their Lordships held the order of compulsory retirement arbitrary. In the case on hand the applicant has suffered as many as four punishments and at least one of them reflects on his integrity also. This judgement is therefore not applicable to the instant case.

8. The learned counsel invited our attention to Annexure P-5 of the DA. In this, the applicant has enumerated the commendation certificates and the awards given to him. The learned counsel submitted that these should have been taken into account and considered by the Review Committee. These commendation certificates and awards had been given to the applicant for the specific works done by him. These certificates do not wipe off charge of lack of integrity. The certificates and awards enumerated in Annexure P-5 do not therefore advance the case of the applicant.

9. So far as the second ground of challenge is concerned, the same is misconceived. The order of compulsory retirement was passed in 1990. Four adverse materials which have been taken into consideration fall within five years prior to this year.

10. In respect of the 3rd ground, we may note that mere non-consideration of the entries subsequent to the year 1986 does not vitiate the order as the order of compulsory retirement can be passed on the basis of totality of service record. The totality of service record shows that the applicant lacks integrity.

11. We are also unable to agree with the submission of the learned counsel for the applicant that order of compulsory retirement will be vitiated on account of the failure to fill up all the columns in the proforma prescribed for supplying information to the Screening Committee and the Review Committee. The information in these columns is aimed at giving guidance to the Members of the Committee. If the Committee felt that any information apart from the ones already supplied was necessary, it could have called upon the department to supply the same. Obviously, the Committee did not feel the necessity of obtaining further information. May be the Committee was of the opinion that the material already supplied was sufficient for formation of the relevant opinion.

12. In view of the above, the application lacks merit and is therefore hereby dismissed without any order as to costs. Interim order if any operating will stand discharged.

P.T. Thiruvengadam
(P.T.Thiruvengadam)
Member (A)
29.3.1995

S.C. Mathur
(S.C. Mathur)
Chairman
29.3.1995

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