

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

12

O.A. No. 2331/1990 with 199
T.A. No. CCP 23/91

DATE OF DECISION 09.08.1991.

Shri Balbir Singh Petitioner

Shri Shankar Raju Advocate for the Petitioner(s)

Versus

The Commissioner of Police, Delhi Respondent
& Others

Ms. Ashoka Jain Advocate for the Respondent(s)

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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 Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? /No
4. Whether it needs to be circulated to other Benches of the Tribunal? /No

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

The applicant is working as a Sub-Inspector in the Delhi Police. The question raised in this application filed by him under Section 19 of the Administrative Tribunals Act, 1985, is whether the act of seeking permission to give press releases regarding alleged atrocities on the Harijans and ^{or} refusal of such permission amount to his representations against the misconduct for which disciplinary proceedings could be initiated against him.

2. The applicant submitted two such applications to the following Commissioner of Police on 25.8.1988 and 3.10.1988 on the subjects:-

"APPLICATION DATED 25.8.1988

" Permission to give the press release that how there is Atrocities with the Harijan Police Officer by the non Harijan Senior Police Officers in Delhi Police".

APPLICATION DATED 3.10.1988

"Atrocities on the Harijans by way of harassment, coercive attitude and torturous behaviour towards weaker sections serving in Delhi Police. Nepotism and Favouritism at its peak".

3. The representations were considered and rejected by the authorities concerned. He was directed not to make unnecessary correspondence in this regard. Despite this, he made two other similar applications on 24.5.1989 and 8.8.1990 seeking permission to issue press release on the following subjects:-

REPRESENTATION DATED 24.5.1989

"Representation regarding atrocities on Harijans by way of harassment coercive attitude and torturous behaviour towards the weaker section i.e. scheduled caste in Delhi Police nepotism and favouritism at its peak even in transfers".

REPRESENTATION DATED 8.8.1990

"Representation under P.P.R. 14.7 regarding atrocities on Harijans by way of harassment, coercive attitude and torturous behaviour towards weaker section i.e. Scheduled Caste and Scheduled Tribes in Delhi Police. Nepotism and favouritism at its peak. Even in transfers and promotions".

4. According to the respondents, the applicant addressed both applications mentioned above to the Commissioner of Police but in the case of application dated 8.8.1990, he "marked" advance copies to Special Secretary, Ministry of Social Welfare for SC and ST, Commissioner for Scheduled Castes and Scheduled Tribes and Shri Ram Vilas Paswan, the then Minister for Social Welfare.

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5. In view of the above, the respondents have issued an order dated 1.10.1990 alleging that the above acts amount to grave misconduct, indiscipline and unbecoming of a Police Officer which renders him liable for departmental action under Section 21 of the Delhi Police Act, 1976. This is under challenge in the present application.

6. The respondents have filed a counter-affidavit in which they contend that the applicant has committed misconduct in the facts and circumstances mentioned above.

7. We have carefully gone through the records of the case and have considered the rival contentions. The case of the respondents is not that despite the refusal to give permission to the applicant sought by him, he proceeded with the issue of press releases and, therefore, flouted the orders passed by the competent authority. In our view, the mere asking of permission to issue press releases on the alleged atrocities on Harijans and repeated representations made by him in this regard to the superiors do not amount to a misconduct, warranting initiation of disciplinary proceedings against him. There must be an overt act or omission on the part of the Government servant in violation of the conduct rules to justify initiation of disciplinary proceedings against him. There is nothing on record to indicate that the applicant issued press releases in the instant case.

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8. In the facts and circumstances of the case, we set aside and quash the impugned order dated 1.10.1990 and any action pursuant thereto on the ground that mere asking of permission to issue press releases will not amount to misconduct. The applicant would be entitled to all consequential benefits including promotion in accordance with the relevant rules ignoring the fact that the respondents had issued to him ^{the} impugned memorandum dated 1.10.1990. OA 2331/91 and the MPs filed are disposed of accordingly.

CCP 23/1990

9. The applicant has filed this CCP alleging that the respondents did not comply with the direction given by the Tribunal in its order dated 12.12.1990 on MP 2929/90. The applicant had stated in the said MP that the departmental enquiry had been ordered against him by the Deputy Commissioner of Police on 1.10.1990, but the summary of allegations had not been served on him. He had further stated that in terms of Rule 5(3) of the Delhi Police (Promotion & Confirmation) Rules, 1990, a member of the Police Force, will not be considered for promotion till the proceedings are over. As an interim measure, the Tribunal directed that the case of the applicant for promotion should be considered, if due, so long as no summary of allegations has been served on him. The interim order was continued thereafter on 26.12.1990.

10. The applicant has stated that the respondents have not complied with the above directions.

11. In view of our judgment in OA 2331/1990 and the directions contained therein, it is not necessary to proceed with the CCP filed by the applicant. The CCP is disposed of without any orders and the notice of contempt is discharged.

There will be no order as to costs.

B.N. DHOONIYAL
(B.N. DHOONIYAL)

3/8/91
MEMBER (A)

B.K. KARMA
(P.K. KARMA)
VICE CHAIRMAN (J)