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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-2139/91

Date of decision: 1.4.1992

Shri P.C. Misra Applicant

Versus

Delhi Admn. through Respondents
Chief Secy., Delhi

For the Applicant In person

For the Respondents Shri M.K. Sharma, Advocate

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? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

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

The applicant, who belongs to the DANI Civil Service and presently working as Deputy Director(Tech.), in the Directorate of Social Welfare, Delhi Administration, has prayed in this application that the respondents be directed to disclose to him the uncommunicated adverse entries in his A.C.R. for the period 1979-80 and expunge the same with all consequential benefits.

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2. The applicant was involved in a corruption case in 1980 which ended in his acquittal in 1982. On 2.1.1985, the respondents conveyed to him the substance of the remarks in his confidential report for the year 1979-80 as under:-

"2. You are an average officer. There were so many complaints against your conduct and official performance. You did not take suggestions from the senior officers in good spirit.

3. You were found unfit for promotion."

3. The applicant challenged the aforesaid adverse remarks in OA-526/89 which was disposed of by the Tribunal by judgement dated 1.3.1990. The Tribunal found that it was a fit case in which the aforesaid adverse remarks should be directed to be expunged and a direction was issued accordingly. In para.10 of the judgement, the Tribunal has observed that the order rejecting the representation of the applicant dated 31.8.1989 against the aforesaid adverse entries stated that "The Reporting Officer was correct in recording that Shri Misra's integrity could not be certified". The Tribunal observed that "This itself shows that the communication of adverse remarks was deficient and the applicant will be taken to have been prejudiced as a result of this. The order rejecting the representation also gives a clear impression that the incident of 20th April, 1980, when the applicant

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was apprehended while allegedly accepting bribe from a person, had influenced the Reporting Officer in recording the remarks in the A.C.R. for the year 1979-80. This was not permissible either legally or under the departmental instructions on the subject, as the A.C.R. for the period has to be confined to the work and conduct during that period."

4. On 4.6.1991, the applicant sent a representation to the Chief Secretary referring to the aforesaid observations contained in the judgement of the Tribunal and requesting that the uncommunicated adverse entries in his A.C.R. for the period 1979-80 be expunged, or it may be declared that the rest of the portion that is retained therein, is not adverse or that he be communicated the total entries contained therein.

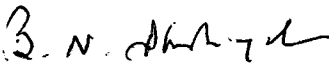
5. The respondents have not disposed of the aforesaid representation. The stand of the respondents in their counter-affidavit is that "The other remarks recorded in the A.C.R. of the applicant, are confidential and cannot be communicated to him". (vide page 19 of the paper-book).

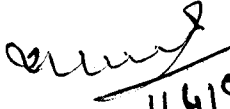
6. We are not impressed by the above contention. Any confidential remark contained in the A.C.R. which is adverse to the officer concerned, is required to be communicated to him as its retention behind his back will adversely affect his career prospects.

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7. In the light of the above, the application is disposed of with a direction to the respondents that if there is any portion of adverse remarks contained in the A.C.R. of the applicant for the year 1979-80 which has not been communicated to him, the same shall be expunged. We further direct that the said remarks shall not be taken into account in the case of future promotions of the applicant.

8. The respondents shall comply with the above directions within a period of three months from the date of communication of this order. There will be no order as to costs.


(B.N. Dhoundiyal)
Administrative Member


11/4/92
(P.K. Kartha)
Vice-Chairman(Judl.)