

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

6

O.A.No. 2311/91.

Date of decision 18.9.92

Shri Gopi Chand

... Applicant

v/s

Delhi Administration, ... Respondents
Delhi & Ors.

CORAM:

The Hon'ble Member Mr. J.P. Sharma, Member (J)

For the applicant ... Shri Shyam Babu, Counsel

For the respondents ... Shri O.N. Trisal, Counsel

(1) Whether Reporters of local papers may be yes allowed to see the Judgement ?

(2) To be referred to the Reporter or not ? yes

JUDGEMENT

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

The applicant, Sub-Inspector in Delhi Police, has assailed the adverse remarks given to him for the period from 1.4.1989 to 25.1.1990 and also the order dated 18th February 1991 partly allowing his representation against the above adverse remarks to Deputy Commissioner of Police.

2. The relief claimed by the applicant that the said adverse remarks be expunged from the Annual Confidential Report of the applicant communicated to the applicant by the order dated 22.7.1990 and the applicant is categorised in 'A' and alternatively

in 'B' category without consequential benefits regarding seniority, promotion etc.

3. The facts are that the applicant was working as Sub-Inspector in Delhi Police, North District for the period from 1.4.1989 to 25.1.1990. He has been adversely commented by the Reporting Officer and has been categorised in 'C' category. On his representation, however, the Deputy Commissioner of Police deleted some of the adverse remarks given to the applicant regarding his honesty, moral character, moral courage and to expose the malpractices of subordinates, personality, reputation for fair dealing with the public, tactlessness, selfishness, communal impartiality, loyalty to the Government in power, attitude towards subordinates, and relations with fellow officers, uncooperativeness, vindictiveness towards others, general power of control and organising ability, personality and initiative pertaining to column No. 1 to column No. 9. In column No. 16, column of general remarks it has also been stated that his name be put on integrity doubtful list and a departmental inquiry has been initiated against him on 22.12.1989 for extortion of money. The remaining remarks given by the Reporting Authority, however, against each column and under the column of general remarks were treated as unchanged.

The category report has also not been changed.

The remarks that remain against the applicant given by the Reporting Officer are low reputation, least interested in modern method of investigation and in modern police methods generally; he has hardly made any detections; working experience of criminals law and procedures - poor knowledge of law; least reliable; against efficiency on parade - just satisfactory; work and conduct of the officer was poor; a corrupt officer. He was also warned by the Reporting Officer vide Advisory Note dated 4.9.1989 that he is mixed up with criminals. His integrity is doubtful. He did not mend himself.

During the period he has hardly made seizures. He has also been transferred to non-sensitive posts only on the basis of above grounds. He has not been posted in any sensitive units.

4. The respondents contested his application and stated that as per rules and instructions an Advisory Note was issued to the applicant dated 4.9.1989 through which he was informed that he was not taking interest in his work and have not made any dependent seizures. He was also informed about the complaints made against him to the effect that he was mixed up with criminals. He was also advised and warned to mend which he did not. It is further stated that on the complaint of Major Kuldip Singh, a retired army officer, a departmental inquiry was instituted against him but that was subsequently dropped. On his representation on the adverse

remarks the Reviewing Authority has applied his mind and deleted some of the adverse remarks given to the applicant. The respondents have further stated that the applicant was also heard of extorting money from Mrs. Jasdeep, the wife of accused, involved in FIR No. 613 dated 17th August 1989 under section 21/61/85 of NDPS Act P.S. Connaught Place. The applicant was I.O. of that case. In view of this it is stated that the application is devoid of merits and liable to be dismissed.

5. I have heard the Ld. Counsel of both the parties at length and have gone through the records. The first contention of the Ld. Counsel is that though the Reviewing Authority has ordered deletion of certain adverse remarks but in one part of the said memo. these remarks have been deleted but when taken together they still exist in the later part of the remarks given by the Reporting Officer. For instance, remarks given in the column of honesty has been expunged but the remarks regarding the low reputation still exist. The adverse remarks that the applicant is uncooperative and vindictive is also unjustified and there is no material on record. The Reviewing Authority has also expunged the adverse remarks of vindictiveness in the column of personality and initiative as also the remarks in the column power

of command it has been reported that the applicant cannot command properly but this was already expunged by the Reviewing Authority in the column general power of control and organizing ability. Thus the Ld. Counsel has argued that the Reviewing Authority did not analyse the basis of award of the adverse remarks to the applicant and also that some of the remarks expunged but still in another form they are allowed to remain in the comments given by the Reporting Officer. In fact, the applicant has been duly informed by a note of 4th September 1989 but the contention of the Ld. counsel for the applicant is that this note was issued to all the officers of the section in which the applicant was posted. Thus the receipt of this note dated 4.9.1989 is not denied through which the applicant was informed that he was not taking interest in his work and not made any ⁱⁿ dependant seizure. The applicant cannot take ^{plea} the ~~hell~~ that some notes were issued to other officers also. He cannot also say that the Advisory Note was arbitrary and unjustified. The Reporting Officer ^{has} at the occasion ^{under} was watched the work of the applicant during the period of review and the shortcomings noticed

were duly informed to the applicant at the appropriate time and in writing. The applicant cannot challenge the wisdom of the Reporting Officer in that regard. It is also not denied by the applicant that a retired army officer Major Kuldeep Singh has made a complaint against the applicant for extorting Rs. 10,000/- and further that he was arrested by him. Though inquiry was instituted but for want of evidence it was dropped. Not only this the Inspector Dayal Singh under whom the applicant had worked had recorded in his confidential report that the applicant extorted money from a sweeper. Though in the rejoinder the applicant has denied this fact. Now the question remains that the reputation of a person is ^{judged by} just by the conduct of the concerned person and what the ^{thinks} other things about such person. There cannot be any guidelines to measure the reputation of a person excepting that the persons form opinion on the basis of conduct and dealings from day-to-day life which are exhibited in overt and covert acts. The Reporting Officer had the occasion to watch the conduct both in professional and personal life of

(12)

the applicant and on the basis of the same the remarks have been given to the applicant. The Reviewing Officer also has scrutinized the same on the basis of the representation made by the applicant and ^{formed} ~~from~~ his own notions gathered from watching the official work of the applicant. Thus, it cannot be said that the remarks of low reputation is unjustified. Regarding the knowledge of law, investigation and seizures not properly done by the applicant, the Reporting Officer as well as Reviewing Officer simultaneously agreed and it cannot be said that their opinion is biased and is malafide. The applicant in his application has not alleged malafide either against the Reporting Officer or against the Reviewing Officer. In fact, the Reviewing Officer has been fair in dealing with the representation made by the applicant against the adverse remarks.

6. The Ld. Counsel has dealt in detail on the various remarks given to him which still remains on record against the applicant and wants in a way to erase them on the basis of certain deleted remarks by the Reviewing Authority. It is not so.

J

The columns in the report have been commented upon looking for the various aspects of the performance of the applicant. In view of this, it cannot be said that the opinion of the Reviewing Officer is, in any way, faulty or unfair.

7. Basically, we have to take into account that the remarks in the annual Confidential Rolls are not given by way of punishment. These remarks are given only on the basis of the performance of a particular person during the period under review. It is the opinion of the Reporting Officer and in order to test that opinion the representations against those remarks are duly considered by the next higher authority and that has been done in this case. The court cannot sit as an Appellate Authority over the wisdom of the Reporting Officer or the Reviewing Authority or the Appellate Authority and to scrutinize the various remarks on the basis of available material on record. The contention of the Ld. Counsel that earlier the applicant had been given 'A' Grade would not necessarily mean that in every succeeding year he should also be categorised in the same grade.

8. The Lt. Counsel for the applicant has also argued that the representation of the applicant has not been dealt with in objective manner but it is not so. The Lt. Counsel for the respondents has referred to the case of Raj Veer Singh reported in 1989 SLR Vol.I 722 and also to the case of Union of India v/s E.G. Nambudiri [AIR 1991 SC 1216]. The Lt. Counsel for the applicant also referred to the certain authorities that there should be some material available on record to justify the opinion recorded by the Reporting Officer for giving the adverse remarks. The personal file of the applicant was also summoned and seen and I am convinced that there is material on record which goes to show that during the period under review there was a complaint against the applicant which was also enquired into but for want of evidence that was dropped. It needs courage and boldness for any person to come and give evidence against the disciplined force as there is always risk of earning animosity for no good. The applicant has also been informed during this period to exert himself and work to the satisfaction of the higher officers. Thus it is a case where there is certain material on record which go to show that Reporting Officer

as well as the Reviewing Authority have atleast
subjectively assessed the work of the applicant.

9. In view of the above facts I find that the
present application is devoid of merit and is
dismissed leaving the parties to bear their own
costs.

J. P. Sharma
J. P. Sharma 18.9.92
Member (J)