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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

C.A. NO. 2324/91

Date of Decision : 25.09.92

Shri Charan Singh

...Applicant

Vs.

Delhi Administration & Ors.

...Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Shri Shyam Babu

For the Respondents

...Shri Mukul Dhawan

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

The applicant, Assistant Sub Inspector (Executive) has filed this application aggrieved by the orders dt. 10.7.1990 and 20.2.1991. The applicant was given adverse report for the period from 1.4.1989 to 31.3.1990 (Annexure A) by the Deputy Commissioner of Police on 10.7.1990. By the impugned order dt. 18/20.2.1991, his representation against the adverse remarks was rejected. The applicant has claimed the relief for expunging the adverse remarks given for the period in question for quashing the order dt. 10.7.1990 and the order of rejection of the representation dt. 20.2.1991.

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2. The facts of the case are that the applicant was posted as ASI (Executive) in the Office of Deputy Commissioner of Police, Provisioning and Lines (Delhi). According to the applicant, he performed his duties consciously. Inspite of that, the adverse remarks have been given to him for the period from 1.4.1989 to 31.3.1990. While giving the adverse remarks to the applicant, the guidelines on the subject have not been followed. In the adverse remarks, it has been noted that there are complaints against his honesty. He has no courage to expose the malpractices of subordinates and his attitude towards subordinates and relations of fellow officers is harsh and he is not reliable. He has been categorised as 'C'. On his representation, the Additional Commissioner of Police by the impugned order dt. 18/20.2.91 maintained the remarks. But remarks in column 1 regarding honesty have been ordered to be substituted by 'Nothing has come to notice which might cause adverse reflection on his integrity.' The case of the applicant is that the authority has not placed any material on record nor communicated the same to the applicant to substantiate the adverse remarks. No specific instances have been

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given by the authority also. The aforesaid remarks are purely subjective in nature. He also stated that the Appellate/Reviewing Authority did not pass the speaking order nor gave any reason for rejecting the representation of the applicant against the adverse ACR.

3. The respondents contested the application and stated that the applicant has also been earlier censured in 1985 owing to violation of Conduct Rules. He was also suspended, but subsequently reinstated in 1986.

It is also stated that the applicant did not perform his duties to the full satisfaction of his superiors. The respondent No.2 while recording the adverse remarks in the ACR did not act arbitrarily ^{or} formed subjective opinion.

During the period from 1.4.1989 to 31.3.1990, the applicant was assigned to look after the work of Chitha Munshi, deployment of force and working of MHC-R. A complaint (anonymous-Annexure-I) against the applicant was received in which there were certain allegations of misbehaviour to subordinates and use of rude language, making false absence in the daily diary and for not forwarding the copy of daily diary to the branch concerned

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and demanding bribe/wine in lieu of leave/duty were levelled against him. There were also verbal complaints against the applicant. The matter was also got enquired into and the Enquiry Officer came to the conclusion that the allegations against him regarding misbehaviour to his subordinates, use of rude language were established. The general reputation of the applicant was also poor. The applicant also failed to supervise the work assigned to him properly and unduly delayed the absentee papers. Thus there was objective assessment about the work of the applicant for the period under review.

4. I have heard the learned counsel for both the parties at length and have gone through the record of the case. The departmental record has also been perused which was put up for perusal of the Bench. It is evident from the record that there were complaints against the applicant of misbehaviour to the subordinates. In fact the department has also enquired into the matter and found much substance in the same. The applicant, therefore, cannot have any grudge on that account. The Appellate

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Authority has also applied its mind and it is not necessary that there should be a speaking order of rejecting the representation as held by the Hon'ble E.M. Supreme Court in Nambudri Vs. Union of India, AIR 1991 SC 5-1216. The contention of the learned counsel is that the rules have not been followed in giving the report against the applicant and in this connection the learned counsel has referred to the circular dt. 25.11.1975. A copy of the said circular has been enclosed as Annexure D to the application. Though Clause 5.2 of the Rules provide specific procedure for filling up the column relating to integrity, but in the case of the applicant, column of integrity has been modified, substituted by another clause by the Appellate Authority. The time schedule provided in the said circular, of course, has not been observed by the Reporting as well as the Reviewing Authority. But at the same time these circulars are directory in nature and no prejudice has been caused to the applicant because the representation of the applicant has been disposed of well in time.

5. The integrity of a person should not be withheld unless and until such person is given an opportunity to

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express himself regarding complaints against him.

However, in the present case, the column of integrity

has been substituted as 'Nothing has come to notice

which might cast adverse reflection on his integrity.'

This almost amounts to verifying the integrity of the

applicant and that cannot be said to be doubtful.

However, in the matter of integrity and honesty, direct

evidence is never forthcoming. It is the general

reputation which a person earns by his own working,

conduct and performance coupled with dealings with

the public. In the present case, the anonymous

complaint (Annexure R-1) does go to show that there

were certain grievances against the applicant even

in regard to his honest working, so the Additional

Commissioner of Police has given his own opinion after

perusal of the record.

6. The adverse remarks to the applicant pertains to

his general behaviour with the subordinates and the

officials with whom he has to deal at the lower level.

He was doing the work of Chitha Munshi and of NHC-R in

which he has to deal with the lower section of the police

force. Such persons cannot avowedly come against the

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applicant for fear of reprisals. The lower ranks want their work to be done smoothly and if the person dealing with them gets annoyed or enimical, then they have to suffer. So the complaint made against the applicant was not by a particular name. It was a general complaint given anonymously. However, the respondents have also, during the period under review, got it enquired at their own level and did not take any action against the applicant because the said complaint did not bear any name of its author. However, on enquiry by an independent source, the contents of the said complaint were found to some extent correct. Further it is the case of the respondents that the applicant was also verbally informed. In view of so much material against the applicant, it cannot be said that the adverse report given to the applicant was without any basis.

7. The learned counsel for the applicant has stressed that adverse remarks should be substantiated by some material and the anonymous complaint itself satisfies the condition desired by the applicant. In any case, the work of an official is watched by the superior officer during

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the whole year and it is the opinion of the officer which prevails. No malafide has been alleged as to why the said reporting officer has given the adverse remarks to the applicant. In the ACR, the applicant has also been given good remarks. His moral character, efficiency on parade has been appreciated. His impartiality and loyalty to the Government has also been appreciated. It cannot be, therefore, said that there was any prejudice against the applicant for giving the said adverse remarks which the applicant has desired to be expunged.

8. As regards the applicant's categorisation as 'C', it is overall performance of the applicant which has been adjudged. The applicant cannot enter into self praise and give his own ranking according to his own impression. What counts is the impression gained by the superior of the applicant for the performance he has put in for the official work assigned to him.

9. In view of the above facts, I find that the

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

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J. P. Sharma 25.4.92
(J.P. SHARMA)
MEMBER (J)