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

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Date of Decision: 27.11.92

OA 2940/91

BAL KISHAN ... APPLICANT.

Vs.

Lt. GOVERNOR, DELHI & ORS. ... RESPONDENTS.

CORAM:

HON'BLE SHRI J.P. SHARMA, MEMBER (J).

For the Applicant ... SHRI RAJAN SALUJA.

For the Respondents ... SHRI MUKUL DHAWAN.

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

J U D G E M E N T

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J).)

The applicant is Assistant Sub-Inspector and is aggrieved by the adverse remarks given to him for the period from 1.4.90 to 19.11.90 while he was posted at Police Station Ambedkar Nagar, New Delhi. The applicant has been commented by the Reporting Officer, as follows :-

".....It is further mentioned that his preventive and detective ability is poor. The officer was an investigating officer in the Police Station. His calibre as an I.O.

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remained very ordinary.His overall performance on prevention and detection front was absolutely average. His performance on B.Cs. and P.Os. front also remained zero. He is a very ordinary I.O. who needs much more exposure for better policing. His overall performance is just satisfactory."

The representation against the said remarks was also dismissed by the Addl. Commissioner of Police by the order dated 19.10.91. The applicant has claimed the relief that the said remarks be expunged from the Annual Confidential Report for the aforesaid period.

2. The respondents contested the application by filing a reply opposing the relief prayed for by the applicant stating that the remarks was given to the applicant on the basis of his performance and on his representation, addressed to the Addl.C.P., he was given also opportunity of personal hearing but the applicant failed to turn up on the basis of the available material and his representation was rejected. The applicant has filed rejoinder also to the said reply. reiterating the same facts as alleged in the application.

3. I have heard the learned counsel for the parties at length. The first contention of the learned counsel for the applicant is that the remarks in the ACR are stereo-type and are illegal and ^{un}lawful. The applicant has also denied having received any memo dated 18.4.90 or any other memo during the period the ACR is written. In fact, the respondents have taken stand in para 15 of the reply that the applicant was

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asked to remove his defects on a number of occasions and there was no improvement and no tangible results despite memo dated 13.4.90 and also memo dated 13.6.90. Though the applicant in the rejoinder has denied this fact but in the personal file of the applicant there is an averment of the fact that the applicant has been informed to improve himself by these memos. So, it cannot be said that the applicant has not been informed regarding his shortcomings during the period under review.

4. The Reporting Officer has commented that the preventive and detective ability of the applicant is poor. However, it has been also reported that in total the applicant has investigated only 23 cases, out of which maximum cases were of accident and hurt. It is also reported that his performance on B.Cs. and P.Os front also remained zero. These facts are based on record and the applicant has not in any way shown that this is wrong mention of fact. In the application, the applicant has averred that the addresses of P.Os. were properly checked and no P.O. and no B.C. was found in the available addresses. This averment of the applicant was not taken satisfactory by the respondents and obviously because being posted in the particular Police Station, the applicant should be aware of the B.Cs. and P.Os. and about their movements. The opinion, therefore, formed about

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him by the Reporting Officer cannot be said to be in any way biased or malafide.

5. The applicant himself has made certain averments in the application that during the period under review, the wife of the applicant fell ill and he had to regularly visit the hospital in the month of April for her check up. He has also stated that in the absence of his wife he had also to take care of minor children. Though the applicant was having certain family problem but the output of the applicant given by the applicant was not condoned by the Reporting Officer on this basis and this court cannot sit as an Appellate Authority to judge the wisdom of the Reporting Officer. The learned counsel for the applicant could not show, in any manner, that the opinion formed about the applicant could not possibly ^{be} formed on the basis of performance done by the applicant during the period under review. The applicant has also been given some satisfactory performance in other spheres of his service though the family life of the applicant was somewhat disturbed from April, 90 to July, 90 but that cannot be taken as an excuse not to put any proper output of the assigned work particularly in the cases which were handed over to the applicant for investigation. The lame excuse taken by the applicant cannot by itself be taken reasonable to upset the opinion formed about his work by the Reporting Officer.

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6. From the departmental file it also appears that the applicant has been given thrice opportunities to appear in person and explain his case to the Addl.C.P. on his representation but the applicant could not turn up and as argued by the learned counsel for the applicant he was on leave. But the departmental file show that he was on unauthorised absence and by the time the representation was disposed of, that unauthorised period was not regularised as leave of any kind due. However, ^{opportunity was} adequate/afforded to the applicant to explain his case and on that account he cannot any grievance.

7. Having considered all these aspects and the fact that there is no averment of bias or malafide against the Reporting Officer, the impugned order does not need any interference. The application is, therefore, devoid of merit and is dismissed leaving the parties to bear their own costs.

J. P. Sharma
27.11.92
(J.P. SHARMA)
MEMBER (J)