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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 297 of 1991

New Delhi this the 14th day of December, 1995.

HON'BLE SHRI N. V. KRISHNAN, ACTING CHAIRMAN
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

Const. Ranjit Singh
(NO.1789/DAP),
Delhi Police, Delhi. ... Applicant
(By Smt. Avnish Ahlawat, Advocate)

-Versus-

1. Delhi Administration
through Addl. C.P. (Admn.),
Delhi.
2. DCP/Headquarters-I,
M.S.D. Building,
I.P. Estate, P.H.Q.,
New Delhi. ... Respondents
(By Shri Vijay Pandita, Advocate)

O R D E R (ORAL)

Shri N. V. Krishnan, Acting Chairman :-

The applicant is a Constable in the Delhi Police. He is aggrieved by the Annexure-D order dated 3.4.1990 of the 2nd respondent, D.C.P., Headquarters, directing removal of the applicant's name from the promotion list 'A' in which his name was brought with effect from 13.11.1987. The appeal against this order has been dismissed by the Annexure-F order dated 11.9.1990.

2. There is no dispute about the above facts. While the applicant was working as a Constable, his name was brought on the promotion list 'A' w.e.f. 13.11.1987. This list consists of the names of confirmed Constables considered fit for being sent to the lower school course which is the first step in the ultimate promotion as Head Constable. Accordingly, the applicant was sent to the lower school course which is stated to be of

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six months' duration and admittedly, the applicant satisfactorily completed that course in August, 1989. The applicant was thus expecting his eventual promotion as Head Constable. However, in the meanwhile he was served the show cause notice dated 6.12.1989, Annex.-B, by the 2nd respondent asking him to show cause why his name should not be removed from promotion list 'A' w.e.f. 13.11.1987 as he had failed to maintain an exemplary standard of conduct as required by Rule 7(ii) of the Delhi Police (Promotion and Confirmation) Rules, 1980. The main ground given was that it was found that, after admission of his name on promotion list 'A', his ACR for the period 1987-88 had been categorised as 'C' which means that it was adverse in nature. A reply to the show cause notice was sent, Annexure-C, on 14.12.1989, and after considering the reply, the impugned orders were passed.

3. The respondents have filed their reply contesting these claims. When the matter came up for final hearing, the learned counsel for the applicant argued the case based on a number of grounds. One ground taken was that as soon as the applicant passed the lower school course, he automatically got into list 'B' by virtue of the provisions of Rule 13. Her contention was that no screening by any DPC was required for inclusion of the name of the applicant in the list 'B'. If that be the case, the applicant stood included in list 'B' as early as in August, 1989 and, therefore, there is no question of issuing a notice in December, 1989 for the removal of the applicant's name from the earlier list 'A'. Those proceedings should thus be held to have become infructuous right from the initiation of these proceedings.

4. Alternatively, the learned counsel for the applicant submitted that the adverse remarks for the year 1987-88 obviously were in the possession of the respondents. These adverse remarks were communicated to the applicant on 30.3.1989. Therefore, this report must have been with the respondents much earlier. Yet, the respondents have chosen to send the applicant for the lower school course in February ^{or March} 1989 and, therefore, it has to be presumed that the respondents did not attach any significance to this isolated adverse remark. That being the case, the respondents are estopped from raising up this issue in December, 1989 after the applicant had completed the lower school course successfully.

5. Other grounds were also raised but as we felt that the O.A. could be disposed of finally on the consideration of either of these two grounds, we heard the learned counsel for the respondents on these issues.

6. In so far as the automatic inclusion of the applicant's name in list 'B' under Rule 13 is concerned, the learned counsel for the respondents points out that Rule 8 which deals with constitution of DPC provides that there shall be a DPC for promotion of confirmed Constables whose names are included in list 'B'. He, therefore, suggests that inclusion in list 'B' cannot be taken to be automatic. He, however, was unable to satisfy us on the second ground, particularly, in the light of the pleadings.

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7. In the circumstances, we are of the view that it is not necessary for us to deal with the case whether inclusion of the name becomes automatic under Rule 13. That can be reserved for a more suitable occasion when such issue is directly raised.

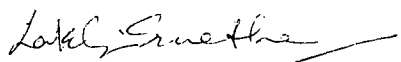
8. In so far as the present case is concerned, admittedly, the applicant had a good record as a result of which alone his name was included in list 'A' effective from 13.11.1987. The only adverse entry which the applicant had secured after such inclusion is the one relating to 1987-88. That adverse report, a copy of which is at Annexure-A, is certainly damaging. That report could, perhaps, have constituted a reasonable ground for resorting to action under Rule 7(ii). However, that should have been done before the applicant was sent for training to the lower school course. It would even have been permissible to have sent the applicant to the course provisionally informing him that this was subject to proceedings under Rule 7(ii). No such action has been taken by the respondents. It may be mentioned here that the applicant was ultimately sent for training in February, 1989. It is just possible that this report might have been ignored in view of the subsequent performance of the applicant in the year commencing from 1.4.1988 up to February, ^{or March} 1989, as the case may be.


9. We are, therefore, of the view that the very fact that in spite of the adverse report of 1.4.1987 to 14.3.1988 being on record, if the applicant was sent for the lower school course, it only meant that the respondents did not attach any serious significance to that report. In this view of the matter, we hold

that the subsequent action to issue a notice to the applicant under Rule 7(ii) in December, 1989 is unwarranted and accordingly, that notice and the subsequent impugned order deserve to be quashed and we order accordingly.

10. The result would be that the applicant's name would continue to remain included in list 'A' where it was first included on 13.11.1987. The respondents are now directed to take action in accordance with law for inclusion of the applicant's name in list 'B' consequent upon the quashing of the impugned order.

11. The O.A. is accordingly disposed of. No costs.


(Smt. Lakshmi Swaminathan)
Member (J)


(N. V. Krishnan)
Acting Chairman

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