

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-316/91

Date of decision: 12.3.1992

Smt. Raj Laxmi

.... Applicant

Versus

Delhi Administration through
Commissioner of Police and Respondents
Another

For the Applicant

.... Smt. Meera Chhila, Advocate

For the Respondents

.... Miss Geeta Luthra, Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. D.K.Chakravorty, 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? *yes*

JUDGMENT

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

The applicant, who is presently working as a constable in the Delhi Police, is aggrieved by the adverse remarks communicated for the period 21.9.1989 to 31.3.1990 and the order dated 5.10.1990, whereby her representation against the said remarks was rejected.

2. We have carefully gone through the records of the case and have heard the learned counsel for both the

parties. The respondents have ~~xxxx~~^q placed before us the relevant personal file of the applicant and her C.R. dossier. We have also perused them.

3. In the Annual Confidential Report of the applicant for the period 21.9.1989 to 31.3.1990, the Reporting Officer has remarked that her honesty "cannot be vouched for" and that she was "not reliable". As regards the general conduct, it has been stated that "She was awarded censure for poor maintenance of P.S. record and for not taking proper security arrangements for case properties. She was advised not to misrepresent facts about her seniors and colleagues. Her performance was also not up-to-the mark as I/C, Self-Help Centre, Hauz Khas. She needs constant watch and supervision".

4. The Reporting Officer (Shri P.R. Meena) had made the above remarks on 24.12.1990. The Reviewing Officer agreed with the aforesaid observations vide his note dated 20.3.91. The adverse remarks were communicated to the applicant by order dated 2.7.1990.

5. In view of the adverse remarks, the applicant was graded as Class 'C' for the period indicated above. For the period from 1.4.1989 to 30.7.1989, which was the earlier report, as well as for the period from 6.6.1990 to 31.3.91, which was the latter report, she had been graded as 'Grd 4' ('B' Report). In the former case, there were no comments about her honesty and in the latter case, it was observed

that there was no complaint against her honesty. In her whole service career, the reports pertaining to the applicant have been graded either as 'A' or 'B', except for the period in question, when she was given only Grade 'C' report.

6. The applicant has also annexed to the application photo-copies of several commendation certificates awarded to her, nine of which pertain to the period 1989-90. It was during the same period that the respondents passed an order on 8.11.1989 to the effect that the applicant, along with other officiating Inspectors (Women), had successfully completed the period of probation.

7. The applicant has contended that the Reporting Officer has given the adverse report to her because he had been asked to do so by Smt. Krishna Niyogi, the wife of Mr. Niyogi, Additional C.P., Delhi. On 17.4.1990, Mrs. Niyogi, along with ACP/Welfare, visited Hauz Khas Welfare Centre. During her visit, it has been alleged that she had asked the applicant to do some personal work at her residence, which the applicant had politely refused as the same did not form part of her official duties. Mrs. Niyogi got annoyed and made a complaint to the Reporting Officer. On 19.4.1990, the Reporting Officer sent a confidential memo. to the applicant as under:-

"It has been brought to the notice of the undersigned that Mrs. Krishna Niyogi and ACP/Welfare paid a visit to Hauz Khas Welfare Centre on 17.4.90

and found that Welfare Centre is not functioning properly and you are lacking interest in your govt. duty. Further, you were reportedly discourteous with the ACP/Welfare and Mrs. Kishori Niyogi.

You are, therefore, asked to explain as to why suitable departmental action cannot be taken against you. Your explanation should be submitted to the undersigned within one week of its receipt."

8. The applicant submitted a reply to the aforesaid memo., wherein she highlighted the good work done in the Welfare Centre, where she had been posted.

9. The A.C.R. for the period 21.9.1989 to 31.3.1990 was written by the Reporting Officer on 24.5.1990, which was soon thereafter.

10. The applicant was given a show-cause notice on 13.8.1990 in which she was asked to show cause as to why her conduct on 17.4.1990, when Mrs. Niyogi visited the Welfare Centre, Hauz Khas, New Delhi, should not be censured for the lapses committed by her. The applicant submitted her reply to the said show-cause notice on 21.8.1990. On 18.9.1990, her explanation was found satisfactory and an order to that effect was passed.

11. In the representation submitted by the applicant against the adverse remarks in question, she had referred to the good work done by the Welfare Centre at Hauz Khas, where she had been posted. She stated that thereafter, she met the Commissioner of Police and informed him that it was because of Mrs. Niyogi's complaint that she had been adversely reported.

12

12. Normally, in cases where challenge is made to the adverse remarks in the confidential reports of a Government servant, the scope for interference by a Court or Tribunal is limited. The assessment about an officer is more on the subjective satisfaction of the Reporting/Reviewing Officers on the basis of the performance of the person concerned during the relevant period. At the same time, when some adverse remarks are made, there should be proper material to justify the same. In the instant case, the surrounding facts and circumstances clearly indicate that the assessment made by the Reporting Officer is neither fair nor just. The remarks made by the Reporting Officer that the honesty of the applicant cannot be vouched for, is contrary to the general principles which are required to be observed by the Reporting Officers as contained in the relevant administrative instructions issued by the Government. In such cases, the entry should be based on established facts and not on mere suspicion. No facts in support of the entry is available on record.

13. The Reporting Officer has referred to the applicant having been awarded censure for poor maintenance of C.S. record and for not taking proper security arrangements for case properties. No censure was awarded to the applicant during the period from 21.9.1989 to 31.3.1990, which is the period of report. The penalty of censure was imposed on her

2

on 19.6.1990 for the alleged lapses on her part while she was posted as S.H.O., Defence Colony. The order of censure was, however, set aside by the Appellate Authority by order dated 4.2.1991. The other show-cause notice issued to her on 13.8.1990 in regard to her lapses while she was posted at Welfare Centre, Hauz Khas, proposing to censure her conduct, was also not confirmed and her explanation was found satisfactory by order dated 18.9.1990.

14. The Reviewing Authority, who has agreed with the Reporting Officer, evidently did not apply his mind to the aforesaid facts and circumstances.

15. In the light of the foregoing discussion, we are of the opinion that the applicant is entitled to succeed in the present application. We, therefore, expunge the adverse remarks communicated to the applicant for the period 21.9.1989 to 31.3.1990. The categorisation of the report as 'C' Grade, should be upgraded as 'B' Grade. The respondents are directed to make the necessary corrections in the confidential report relating to the period from 21.9.1989 to 31.3.1990 and communicate the same to the applicant within a period of two months from the date of communication of this order. There will be no order as to costs.

D.K. Chakravorty 12/3/92
(D.K. Chakravorty)
Administrative Member

P.K. Karthi 12/3/92
(P.K. Karthi)
Vice-Chairman (T-42)