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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 499 of 1991

New Delhi, dated this the 20th July, 1999

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. P.C. KANNAN, MEMBER (J)

Shri Raj Pal Singh,
S/o Shri Behari Singh,
Working as Sr. Pub. Prosecutor (SCB),
C.B.I., CGO Complex, New Delhi
R/o 239, E, Pocket I,
Mayur Vihar,
Delhi-110091.

... Applicant

(None appeared)

VIAO. No. Versus

1. Union of India through
the Secretary,
Dept. of Personnel & Training,
North Block, New Delhi.
2. Director,
Central Bureau of Investigation,
CGO Complex, Lodi Road,
New Delhi.
3. Dy. Inspector General of Police,
Delhi Region, C.B.I.
New Delhi. ... Respondents

(By Advocate: Shri P.H. Ramchandani)

ORDER (Oral)

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns the adverse confidential remarks
communicated to him vide orders dated 30.6.89 (Annoxuro A-1)
and dated 14.1.91 (Ann. A-2) in regard to his work and
conduct as Sr. P.P. in C.B.I. and also challenges the general
orders issued from time to time regarding administrative
control over P.Ps/Sr. P.Ps in C.B.I. He prays that
respondents confirm and notify that he is working under the
administrative control of the Legal Adviser, C.B.I. in
accordance with the Rajasthan High Court's judgment dated
16.2.84 in Civil Appeal No. 314/83 Union of India Vs. Arjun
Singh.

2. None appeared for applicant when the case was called out even on second call. Shri Ramchandani appeared for respondents and has been heard. This case had come up last on 19.4.99 on which date it had been adjourned to 25.11.99 to await disposal of an R.A. on the Delhi High Court's order dated 7.11.96 in CWP No. 4235/96 dismissing in limine the challenge to the CAT, P.B. order dated 19.9.96 which dismissed O.A. No. 1342/96 Jayadeva Prasad Vs. Union of India & Others (in which a direction had been sought to separate the cadre of PPs from the administrative and disciplinary control of Police Officers) on grounds of being a policy matter. Meanwhile as it is a 1991 case it has been ~~prepared~~ for hearing today. We do not consider it necessary to keep this O.A. pending any longer, merely to await disposal of the aforementioned R.A., as it can be disposed of on the basis of the available materials on record.

3. As per applicant's averments in the O.A. he joined Public Prosecutor the C.B.I. as P.P. in 1982 and was promoted as Sr. Public Prosecutor w.e.f. 5.1.88. He contends that the Public Prosecutor's duties and responsibilities are described in Sections 24 and 25 of Cr. P.C. and mainly involves conduct of prosecution in trials where he represents the State before the Courts upto the level of Sessions Judge. He states that these P.Ps/Sr. PPs also give legal advice. He further states that there is Legal Division in CBI headed by a Legal Adviser, who is assisted by Addl. LAs, Dy. LAs, Sr. PPs, PPs and APPs. The next promotional post for a Sr. PP is Dy. L.A. and so on, and there is thus a regular hierarchy in the C.B.I. Legal Wing, headed by the L.A.

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4. He states that however in actual practice the APPs/Sr. APPs in C.B.I. do ~~not work~~ under the administrative and disciplinary control of the Legal Adviser, but on the contrary, work under the control of Police Officers such as the S.P. and D.I.G. Thus applicant's ACR was written by the S.P., posted in C.B.I. and reviewed by the D.I.G. Applicant emphasises that P.Ps must be able to act impartially and without being influenced by the investigating agency, and their independence and impartiality would be jeopardised if they continue to be placed under the administrative control of Police Officers who are in charge of investigation. In this connection support is sought to be drawn from the Rajasthan High Court's judgment dated 16.2.82 in D.B. Special Civil Appeal No. 314/83 Union of India Vs. Arjun Singh, and in the background of that judgment he prays that he be declared deemed to have worked under the administrative control of the L.A. and his ACRs should have been written by the L.A., and any ACRs written by Police Officers be declared null and void.

5. On the other hand respondents' counsel Shri Ramchandani has shown us a copy of C.B.I. Circular dated 1.2.88 which makes clear that at the relevant period of time when the impugned adverse ACRs were written, the SP/DIG were the reporting/reviewing officers in respect of APPs, PPs and Sr. PPs posted in Branch Officers and it is not denied that at the relevant time applicant was posted in one such Branch Office.

6. We have considered the matter carefully.

7. Applicant has himself conceded in his O.A. that during the relevant period time covered by the impugned adverse ACRs he was working under the administrative control

of the concerned S.P. and D.I.G of Police who recorded and reviewed the same. This is a statement of fact. It is the officials who exercise administrative and disciplinary control over the concerned officer, and who supervise his work and conduct, who are required to write his ACRs and as applicant has himself admitted in the O.A. that at the relevant period of time, it is the S.P. and D.I.G. who were exercising administrative control over him, and respondents' Circular dated 1.2.88 also authorised the concerned S.P. and D.I.G. to record the ACRs of APPs, PPs and Sr. PPs. It is true that the Rajasthan High Court in Arjun Singh's case (Supra) while adjudicating on the question whether APPs/PPs of C.B.I. conducting prosecutions launched under the Special Police Establishment were acting in consonance with Sections 24 & 25 Cr. P.C. has concluded thus.

" The PP and APP in the CBI function under the administrative control of the Legal Adviser who heads the Legal Division and are not under the administrative control of the S.P. Special Police Establishment at the level. It is true that the Legal Adviser exercises his functions subject to any general or specific directions issued by the Director, C.B.I. and that the Director, C.B.I. being the overall head of the C.B.I. organisation also controls the S.P.E. Division. But on the basis of this overall control of the Director, C.B.I. it cannot be said that the independence of P.Ps and APPs in the C.B.I. is jeopardised and they are not allowed to discharge their function impartially.

For the reasons aforesaid we are unable to agree with the Learned Single Judge that the PPs and APPs function as subordinates of the S.P., SPE and therefore we are unable to uphold who is subordinate to S.P., C.B.I. (SPE) should not be allowed to act as P.P."

But in the present O.A. applicant himself concedes that at the relevant period of time covered by the impugned ACRs he was working under the administrative control of the S.P. and D.I.G.

9. No doubt respondents should have examined their Circulars in the light of the Rajasthan High Court's aforesaid observations and taken appropriate action accordingly, but when applicant himself concedes in the O.A. that at the relevant time he was working under the administrative control of the S.P. and D.I.G., and it is they who recorded/reviewed his ACRs, we find no good reasons to intervene judicially with respect to the same, particularly when other grounds have not been taken in the O.A. to challenge the impugned ACRs.

10. In the result we dismiss this O.A. after calling upon respondents to take appropriate action expeditiously in the background of the aforesaid observations of the Rajasthan High Court in Arjun Singh's case (Supra) if not taken already. No costs.

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(P.C. KANNAN)
Member (J)

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(S.R. ADIL)
Vice Chairman (A)

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