

Central Administrative Tribunal, Principal Bench

O.A. No. 2164/2004

New Delhi this the 2nd day of August, 2005

Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

SI Rajeev Godiyal PIS No. 16950135

S/o Shri V.D. Godiyal

R/o A5B/161B, Janak Puri,

New Delhi-110 058

Employed in Delhi Police and presently on
Deputation to Bureau of Immigration, IGI Airport,
New Delhi in the rank of ACIO-II/G.

.....Applicant

By Advocate: Shri Rakesh Kumar.

Versus

1. The Commissioner of Police,
Police Headquarters,
I.P. Estate,
New Delhi-110 002.
2. Shri Satish Chandra
Joint Commissioner of Police,
New Delhi.
3. Shri Uday Sahay
(the then DCP/West District, New Delhi).
4. Dr. R.K. Bansal
(the then ACP/Punjabi Bagh, West District, New Delhi). ...Respondents

By Advocate: Shri Om Prakash.

ORDER (ORAL)

The applicant has sought expunction of adverse remarks in his character roll for the period 1.4.1999 to 27.1.2000, which are to the following effect:-

“Preventive and detective ability – dissatisfactory.

Overall assessment..... He needs lot of improvement on detection front”.

2. The applicant is working as Sub Inspector (Executive) in Delhi Police. He is aggrieved that above mentioned adverse remarks in his ACR recorded by the Reporting Officer and affirmed by the Reviewing Officer have been made in contravention of rules and without a fore-warning to him. His representation for expunction of adverse remarks has been disposed off by a non-speaking order. According to him, the object of the confidential reports is two-fold, firstly to improve the performance of the subordinate and

maclan

secondly to guide him for improving his performance but in the instant case these remarks were made without warning or admonishing. They also seem to be self contradictory since the applicant has been awarded good remarks in general power of control and organizing ability, in modernization techniques of investigation and in modern police method. 74

3. The respondents have contested the case. It is alleged that the applicant while he was posted in West District, his annual assessment about preventive and detective ability was found unsatisfactory by the then reporting authority, the ACP, Punjabi Bagh during the period from 1.4.1999 to 27.1.2000. The reviewing authority, the then DCP West District had agreed with the report of the reporting officer. The adverse remarks of the ACR were communicated to the applicant and his representation was duly considered and rejected by the Joint Commissioner of Police/SR. It was refuted that there were contradictions in the report. The reporting officer in the minutes dated 17.4.1999 had clearly mentioned that the Investigating Officer, specially the applicant, did not know even the brief facts of case with him and in most of the cases, no qualitative investigation was done. During the meeting held on 18.5.1999, 75 cases were shown pending with the applicant and, therefore, it was also pointed out that 24 cases which were pending unnecessarily should be disposed off. The contention of the applicant that the remarks were recorded without any basis, therefore, is not true. Other allegations have also been denied.

4. In the rejoinder to the counter reply, in particular to sub-para (2) of para 2 to 4, the applicant has denied that the reporting officer in the minutes dated 17.4.1999 had mentioned that the applicant did not know the brief facts of the case with him and in most of the cases no qualitative investigation was done. It was further stated that in order to cover the incompetency of the officer, the respondents have pleaded in the counter-affidavit that 75 cases were pending with the applicant and it was also pointed out that 24 cases were pending unnecessarily and should be disposed off. The reply in this regard was vague. It was further stated that the reporting officer Dr. R.K. Bansal was not competent and before recording the adverse remarks he should have given guidance to the applicant to correct the fault and deficiency. He has ignored the procedure for making adverse entry. He has also not followed the principles of natural justice. He also

Dr. R.K. Bansal

did not bear in mind that the applicant has to attend the court and also to visit out stations for investigations apart from performing his duties at the police station. 5

5. After hearing the learned counsel for the parties at length, I had dismissed the OA with reasons to follow. Now I am recording the reasons.

6. Learned counsel for the applicant has argued that the adverse remarks otherwise in a good ACR were made without giving an opportunity to the applicant for improving upon his deficiency or the guidance. It is also submitted that no instance has been cited which may lead to an inference that the applicant lacked the requisite ability and skill adversely commented upon. The instructions in the matter of recording adverse ACRs have also not been properly followed. Learned counsel referred to Rule 6 of Delhi Police (Punishment and Appeal) Rules, 1980, which provided the classification of punishments and authorities competent to award major punishments and minor punishments, which for the present controversy, seems to be wholly irrelevant. He also referred to a Digest on Confidential Report and in particular to page 8, which says that there should be no hesitation on the part of the reporting officer to record adverse remarks in justified cases but such entries should be based on established facts and not on mere suspicion. It also mentioned the manner in which the ACR should be written. It is said that the confidential report should be prepared scrupulously and carefully after following the procedure prescribed and personally assessing the performance of government servant and the report should be based on an objective assessment of work quality of the officer. The reviewing officer should also counter sign the report on the basis of his own independent judgment of work and conduct of the officer reported upon.

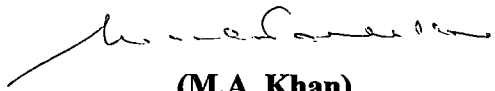
7. In the counter reply to the OA, it has been specifically stated that in the meeting dated 18.5.1999 some deficiencies were pointed out by the reporting officer, which were the basis of the assessment and the remarks. In the counter reply, there is no denial that no meeting was held on 17.4.1999 but it is stated that in the minutes of the meeting, no such remarks as mentioned in para 2 to 4 of the counter reply were mentioned.

8. It is true that ACRs serve two important objectives. One is to afford warning to the subordinate so that he improves upon his performance and second is to assess his potentiality and provide him guidance for removing his deficiencies and short comings and improving upon his performance. In the present case, it cannot be stated that the

Maheendra Kumar

adverse remarks which are impugned in the OA, are whimsical and without any proper assessment by the reporting officer and the reviewing authority. Had it been so, there would not have been so many columns with all praise for the applicant. There is no apparent contradiction in the ACR because the good remarks and the adverse remarks pertained to two different aspects. The contentions of the oral as well as written arguments of the applicant, do not carry any force.

9. The result is that the OA fails and is dismissed. No costs.


(M.A. Khan)
Vice Chairman (J)

Rakesh