



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 1208/2004

&

O.A. No. 1219/2004

New Delhi, this the 18th day of February, 2005

**HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. S.A. SINGH, MEMBER (A)**

Woman Sub-Inspector Vandana Chandok
W/o Shri Rajeev Chandok,
R/o 281, Satya Niketan,
New Delhi - 35

...Applicant

(By Advocate: Shri Sachin Chauhan)

-versus-

O.A. NO. 1208/2004

1. Union of India through
Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Joint Commissioner of Police,
Vigilance,
M.S.O. Building,
I.P. Estate, New Delhi.
3. Deputy Commissioner of Police,
Vigilance,
Police Headquarters,
I.P. Estate, M.S.O. Building,
New Delhi.

...Respondents

(By Advocate: Mrs. P.K. Gupta)

O.A. NO. 1219/2004

1. Union of India through
Secretary,
Ministry of Home Affairs,
North Block, New Delhi.

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2. Joint Commissioner of Police,
Headquarters,
M.S.O. Building,
I.P. Estate, New Delhi.

3. Deputy Commissioner of Police,
Headquarters,
Police Headquarters,
I.P. Estate, M.S.O. Building,
New Delhi.

...Respondents

(By Advocate: Shri Om Prakash for R-2 & R-3 and none for R-1)

ORDER

Justice V.S. Aggarwal, Chairman:

By this common order, we propose to dispose of Original Applications Nos. 1208/2004 and 1219/2004.

2. The parties in both the Original Applications are common and, therefore, as most of the facts are also identical, the said Original Applications can be taken up together.

3. The relevant facts are that the applicant was appointed as temporary Woman Assistant Sub Inspector (Executive) in Delhi Police from 1.3.1988. The name of the applicant was admitted to Promotion List E-1 (Women) (Executive) from 27.10.1994 with her batch-mates. In terms of Rule 20 of the Delhi Police (Promotion and Confirmation) Rules, 1980 (for short the 'Rules') read with Rule 16 of the said Rules, she was promoted to the rank of Woman Sub Inspector (Executive) w.e.f. 23.06.1995 purely on temporary and ad hoc basis.




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4. While she was posted in F.R.R.O. Unit, a regular departmental enquiry was ordered against her on 25.01.1996 on the allegations that instead of detecting forged paxes, she gave immigration clearance to them. The forgery was detected by the Paris Immigration Authorities and Singapore Immigration Authorities. The forged paxes were deported back to Indira Gandhi International Airport, New Delhi and a criminal case was registered against those passengers. The name of the applicant was brought on the Secret List of doubtful integrity from 25.01.1996 by the Deputy Commissioner of Police (Vigilance). She was also given adverse entries in the Annual Confidential Reports (for short `ACR) for the period 1.8.1995 to 31.3.1996.

5. A departmental enquiry was held and applicant was dismissed from the Force w.e.f. 22.1.1999. She challenged the said order by filing Original Application No. 2145/99. This Tribunal had quashed the order dismissing the applicant from service. It is not in dispute that against the said order, the Department has filed a Civil Writ Petition, which is stated to have been admitted for hearing, but no stay order has been granted. In pursuance of the said decision of this Tribunal, the applicant was reinstated in service vide order dated 25.01.2001.

6. On reinstatement in service, the claim of the applicant was examined for her further promotion to the rank of Woman Sub Inspector with her counterparts. A notice to show cause has been issued as to why her name should not be deleted invoking sub rule (ii) to Rule 7 of the Rules, referred to above. The applicant has answered the same. The Deputy Commissioner of Police passed an order dated 3.07.2003 that the name of the applicant be removed from the Promotion List E-1 of Women



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(Executive) and her ad hoc promotion should be discontinued. The operative part of the said order reads:

"She received the Show Cause Notice on 27.5.2003 and submitted her reply dated 5.6.2003 in response to Show Cause Notice. Her reply was examined by the undersigned carefully and heard W/SI(Exe.) Vandhana Sehgal, No. 1867-D in person on 27.6.2003. The W/SI(Exe.) has taken pleas in her reply that as the disciplinary proceedings have ended in exoneration and on reinstatement with all consequential benefits, any adverse remarks existing upon obliterated and her name was also required to remove from Secret List from the date of inception.

The plea taken by the W/SI(Exe.) is not tenable. As per provisions contained in rule 7(ii) of Delhi Police (Promotion and Confirmation) Rules, 1980, an officer on promotion list should maintain good conduct and efficiency. Any police officer whose name exists on Promotion List; if found guilty of a misconduct of nature reflecting upon his character of fitness for responsibility in the rank of SI, he is not fit for promotion to a higher rank. As one part of the ACR (1995-96) pertaining to honesty has been expunged, with the judgment of the CAT and remaining portion of the ACR particularly preventive and detective ability remained not satisfactory in review. As such her ACR for the period from 1.8.1995 to 31.3.1996 remained adverse and same has been communicated to her when she was posted in FRRO on 24.10.1996. Besides, her name remained on Secret List of officer of doubtful integrity w.e.f. 25.1.1996 to 25.1.2001, as a result she was not promoted to the rank of SI(Exe.).

In view of the above position, it proves that the officer is guilty of a misconduct of the nature, reflecting adversely upon her character establishing her complete unfitness for holding the higher post/responsibility.

It is, therefore, ordered that the name of W/SI(Exe.) Vandhana Sehgal, No. 1867-D be removed from promotion list E-1 (Exe.)(Women) and also discontinue her adhoc promotion to the rank of W/SI(Exe.) with immediate effect."



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7. The applicant preferred an appeal, which was dismissed on 12.2.2004.

8. The applicant had filed OA No. 1208/2004 seeking that her name should be removed from the Secret List from 25.1.1996 with consequential benefits and O.A. No. 1219/2004 praying that the Show Cause Notice and the order removing her name from the ad hoc promotion of Sub Inspector should be quashed. She should be confirmed as a Sub Inspector (Executive) from 30.11.1995 and that she should be treated as Sub Inspector (Executive) with consequential benefits from the past date.

9. Though in the Original Applications, vires of Rule 7(ii) of the Rules has been challenged but no submissions were made in this regard at the time of arguments.

10. The Original Applications are being contested.

11. We have heard the learned counsel for the parties and have seen the relevant records.

12. Resume of the facts, to which we have referred to above, indicates that the applicant had been dismissed and thereafter the dismissal order was set aside by this Tribunal. The name of the applicant had been kept in the Secret List. Applicant contends that it should be removed.

13. At this stage, when a Writ Petition against the decision of this Tribunal is pending in the Delhi High Court and the operation of the order has not been stayed, we find no reason as to why her name should not be removed from the Secret List from the initial date but it should be made clear that it



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would be subject to the final outcome of the decision of the Delhi High Court, referred to above.

14. It is the second controversy, which was seriously agitated. Sub Rule (ii) to Rule 7 of the Rules, reads as under:

“(ii) The conduct and efficiency of men on promotion list shall be, at all times, watched with special care. Any officer whose name exists on the promotion list, if found guilty of a misconduct of nature reflecting upon his character or fitness for responsibility or who shows either by specific acts or by his record as a whole that he is unfit for promotion to higher rank shall be reported to the Deputy Commissioner of Police, head Quarters (1) Delhi in respect of persons on lists `A' to `E' and to Additional Commissioner of Police (Administration) Delhi in respect of officers on list `F'. However, final decision regarding removal of name(s) from a promotion list shall be taken by the Appointing Authority only after giving show cause notice to the individual”

This permits the Department to keep a watch on the officers and the conduct and efficiency of the persons promoted necessarily have to be taken note of. After a show cause notice, if certain persons are found guilty of misconduct of nature reflecting upon their character and fitness, in that event, they can be reverted. It also permits the Department to revert persons, if there are specific acts or by the records as a whole they are found unfit to be promoted. This shows that no unfettered powers have been conferred on the authority concerned. He has to act within the framework of sub rule (ii) to Rule 7 of the Rules.

14A, We have already reproduced above the operative part of the order that has been passed, reverting the applicant. It clearly shows that there was two parts of the ACR of the applicant for the year 1995-96. Pertaining to her honesty, the matter has been expunged because of the

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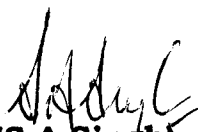
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judgment of the Central Administrative Tribunal. Therefore, that part of the ACR cannot be used against the applicant.

15. It is the second part of the ACR, which promoted the Deputy Commissioner of Police to take action. It pertained to the preventive and detective ability being not satisfactory. We have already reproduced above sub rule (ii) to Rule 7 of the Rules. It does permit the concerned authority to act if there are specific acts in this regard, which are not named in the order, and also whether his record as a whole shows that a person is unfit for promotion. The authorities have never cared to consider the record as a whole. It is confining itself to the ACR for the year 1995-96. It only refers to failure on the part of the applicant for preventive and detective ability. The said ACR does not indicate that the record as a whole has been considered and when specific acts have not been mentioned, impugned orders indeed cannot be sustained.

16. For these reasons, we allow the present Original Applications and direct:

- a) The name of the applicant should be removed from the Secret List from the date it was entered, subject to the final outcome of the pending litigation in the Delhi High Court;
- b) The impugned order dated 3.7.2003 and of the appellate authority of 12.2.2004, are quashed; and
- c) Applicant would be entitled to the consequential benefits.


(S.A. Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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