

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1240/2004

New Delhi, this the 19th day of January, 2005

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A.Singh, Member (A)**

Indraj Singh
Inspector, Delhi Police
No.D-1904/L&B Cell
Police Head Quarters, MSO Building
I.P.Estate, New Delhi.

... Applicant

(By Advocate: Sh. Pradeep Dahiya)

Versus

1. Govt. of NCT of Delhi
Through Commissioner of Police
Police Headquarters
MSO Building, I.P.Estate
New Delhi.
2. Jt. Commissiner of Police
Southern Range, New Delhi
Police Headquarters
MSO Building, I.P.Estate
New Delhi.
3. Deputy Commissioner of Police
South District, Hauz Khas
New Delhi.

... Respondents

(By Advocate: Sh. Ajesh Luthra)

ORDER

By Mr. Justice V.S.Aggarwal:

Applicant (**Indraj Singh**) is working as Inspector in Delhi Police. By virtue of the present application, he seeks setting aside of the order of 10.2.2004 rejecting his representation against the adverse remarks recorded in his Annual Confidential Report for the period from 1.4.1990 to 31.3.1991 and further to direct the



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respondents to hold a review Departmental Promotion Committee meeting for considering his claim for promotion to the post of Inspector from the date when his immediate junior had been promoted, with consequential benefits, if any.

2. The Annual Confidential Report, which is a subject matter of controversy in the present case, reads:

"The annual confidential report of SI Inder Raj Singh No.D/1904 for the period 1.4.90 to 31.3.91 has been categorized as "C". It is mentioned that there is no complaint against his honesty and that he is communal impartial loyal to the Govt. in power without regard to political and party feelings. His moral character, reputation for fair dealing with the public and accessibility to the public, general power of control and organizing ability and power of command is average. His attitude towards weaker section of society and attitude towards subordinate and relations with fellow officers is satisfactory.

It is further mentioned that the officer has a tendency to absent from duty. Beside being censured once such absence from medical rest, the officer remained absent for 76 days when he was detailed to arrest a P.O. from Sahanjahan Pur, Alwar. Subsequently he was reported to have been arrested at Rewari in a criminal case vide FIR No.535/90 u/s 279/336/170 IPC P.S. City Rewari.

The officer is also not competent to investigate cases independently. His contribution in the field of detection and preventive action has also remained poor. The officer is not reliable.

SI Inder Raj Singh No.D/1904 is hereby directed to file representation against these remarks within 30 days of the receipt of this memo to the competent authority if he so desires.

Sd/-
(NEERAJ KUMAR)

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DEPUTY COMMISSIONER OF POLICE:
SOUTH DISTRICT: NEW DELHI."

3. The relevant facts are that in the year 1990, the applicant was working as Sub-Inspector in Delhi Police. He was posted at Police Station, Hauz Khas. It is alleged that on 28.11.1990 at 8 P.M. a Proclaimed Offender file of Babu Lal s/o Birdi Chand in FIR No.1042 dated 5.12.1986 pertaining to offence punishable under Section 406 of the Indian Penal Code was handed over to the applicant by the Officer-Incharge of the Police Station. It was for purposes of tracing the whereabouts of the abovesaid person. The applicant was detailed in the daily diary and to report back by 30.11.1990. He did not proceed to trace the Proclaimed Offender nor recorded his departure in the daily diary. He remained absent from the Police Station. His absence was recorded from 28.11.1990 and one Constable Jasbir Singh was detailed to collect the P.O. file from his residence but he did not return the same. He resumed his duty on 11.2.1991 after absenting for 76 days.

4. During his absence, the applicant left the headquarters without permission. He was found to have been arrested at Rewari with respect to the criminal case FIR No.535/90 pertaining to offences punishable under Sections 279/336/170 IPC. He was suspended on 29.12.1990 but reinstated on 13.11.1992.

5. A departmental inquiry was initiated against the applicant. He was awarded a major penalty of forfeiture of three years approved service permanently for a period of three years. Besides the above, the then Assistant Commissioner of Police did



not find the applicant competent to investigate the cases independently.

6. We have already reproduced a paragraph pertaining to the said entry.

7. The name of the applicant and his immediate juniors was considered for regular promotion to list 'F' in July/August, 1994. The applicant's claim was kept in a sealed cover due to the pendency of the departmental inquiry to which we have referred to above and the criminal case that was pending. On conclusion of the departmental inquiry and acquittal in the criminal case, the sealed cover was opened. The Departmental Promotion Committee found the applicant unfit for promotion. The applicant had been acquitted in the criminal case. He submitted an appeal against the penalty order. The same was dismissed. He preferred OA 2704/2001 in this Tribunal against the orders that had been passed by the disciplinary and the appellate authority. This Tribunal had allowed the OA holding:

"Taking stock of the same, we quash the impugned orders and direct that the disciplinary authority may pick up the loose threads and from the stage where the order imposing the punishment was passed. In accordance with law pass a fresh order. Nothing said herein should be taken as an expression of opinion on the other pleas of the parties."

8. Thereafter, in pursuance of the orders passed by this Tribunal, the Commissioner of Police had passed a fresh order of awarding penalty of censure to the applicant. It was recorded:

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“After carefully examining all the material available on record and after going into the merits of the case, I, N.S.Rana, Joint Commissioner of Police, Planning & Implementation, Delhi, take a view that the allegations of willful absence do not hold firm ground at the first place and are further not grave enough to impose any major penalty. However, I find him grossly negligent and careless in discharge of his official duties. He should have made proper departure before proceeding outstation, proper entries in the outstation Police Stations in Haryana & Rajasthan and should have made proper presentation about his not being medically fit and traffic accident incident etc. and also sent back all the official documents/files in case he was not medically fit. Though malafide intentions are not established in his conduct by EO, the fact remains that he failed to do so and also failed to finally arrest the P.O. The delinquent has already gone through the ordeal of facing Departmental proceedings and other legal procedures and remained under suspension. Accordingly and in light of the C.A.T. orders, I award the punishment of censure to him and advise him to be more careful and conscientious and faithful in the discharge of his duties in future. The period of his absence is treated as E.O.L. As regards the period of suspension, in view of his acquittal in case FIR No.535/1990 u/s 279/336/170 IPC PS Rewari City, Haryana by the Hon’ble Court of Shri J.S.Dahiya, Chief Judicial Magistrate, Rewari vide judgement dated 10.04.1999, the same is decided as period spent on duty for all intents and purpose.”

9. The applicant submitted a representation regarding promotion from the back date, which was examined by the department. The same had been rejected. Resultantly, the present application has been field.

10. We have heard the parties’ counsel and have seen the relevant record.

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11. The learned counsel for the applicant had led us to different orders passed and contended that the ultimate order imposing penalty of censure clearly indicates that the allegations of willful absence do not hold ground and resultantly the remarks which we have reproduced above for the period from 1.4.1990 to 31.3.1991, do not hold any water.

12. The **Supreme Court** in the case of **S. RAMACHANDRA RAJU v STATE OF ORISSA**, 1994 (Supp.) 3 SCC 424 had referred to the importance of recording the Annual Confidential Reports and had highlighted the subjectivity in recording the same. It was held that there should be objective assessment pertaining to the same. The findings read:

"11. It would speak volumes on the objectivity of assessment by the reporting officer i.e. the Principal. This conduct is much to be desired. This case would establish as a stark reality that writing confidential reports bears onerous responsibility on the reporting officer to eschew his subjectivity and personal prejudices or proclivity or predilections and to make objective assessment. It is needless to emphasise that the career prospects of a subordinate officer/employee largely depends upon the work and character assessment by the reporting officer. The latter should adopt fair, objective, dispassionate and constructive commends/comments in estimating or assessing the character, ability, integrity and responsibility displayed by the officer/employee concerned during the relevant period for the above objectives if not strictly adhered to in making an honest assessment, the prospect and career of the subordinate officer being put to great jeopardy. The reporting officer is bound to lose his credibility in the eyes of his subordinates and fail to command respect and work from them. The constitutional and statutory safeguards given to the government employees largely became responsible to display

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callousness and disregard of the discharge of their duties and make it impossible to the superior or controlling officers to extract legitimate work from them. The writing of the confidentials is contributing to make the subordinates work at least to some extent. Therefore, writing the confidential reports objectively and constructively and communication thereof at the earliest would pave way for amends by erring subordinate officer or to improve the efficiency in service. At the same time, the subordinate-employee/officer should dedicate to do hard work and duty; assiduity in the discharge of the duty, honesty with integrity in performance thereof which alone would earn his usefulness in retention of his service. Both would contribute to improve excellence in service."

13. Similarly, in the case of **SUKHDEO v. COMMISSIONER AMRAVATI DIVISION, AMRAVATI AND ANOTHER**, (1996) 5 SCC 103, the Supreme Court highlighted the importance of recording the Annual Confidential Reports and held that there should be due diligence in making remarks. It was held:

"5. In view of the above remarks made by the officer, the conclusion reached is obviously incorrect and it is not in public interest. A man does not become poor in public image when his relationship with the public and subordinates is good and he is a man of integrity and honesty and he has got the satisfactory intelligence for discharging his duties and is fit for promotion. How can in such circumstances his performance would be held unsatisfactory when he is capable of coordinating with subordinates and get the work done. How his technical ability is not satisfactory. The remarks are mutually inconsistent and reasons are self-evident of lack of bona fides in making these remarks. Under these circumstances, it could be characterized that the remarks were not bona fide made in public interest but was a self-serving statement to weed him out from service."

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14. When the present matter is examined on the touch-stone of the same, it is obvious that so far as the remarks in the Annual Confidential Report for the period 1.4.1990 to 31.3.1991 are concerned, it had been recorded that the applicant had a tendency of absenting himself from duty and that he remained absent for 76 days and it was reported that during that period, he had been arrested at Rewari. To that extent, the plea is correct. This part of the remarks ceases to have any consequence on the order passed in the departmental proceedings whereby it had been held that allegations of willful absence do not hold much water and further he had since been acquitted in the Court at Rewari.

15. However, there are other parts of the ACR, which cannot be ignored. The Reporting Officer specifically made a note that the applicant was not competent to investigate the cases independently. His contribution in the field of detection and preventive actions has remained poor. There is precious little even in the application in this regard.

16. Reliance was being placed on the decision of the Single Bench of this Tribunal in OA 1846/2003 [**Sh. Vikram Singh Rathi v. Union of India & Others**], decided on 17.8.2004. The remarks recorded were that the concerned person needs close watch because complaints of misbehaviour during public dealing had been made. This Tribunal recorded that there was nothing on the record that any corrective measure had been taken. In the

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✓ peculiar facts, it must be stated to be applicable to that case only. In the present case, there is no such plea offered by the applicant nor it has been stated that he has been prejudiced in this regard or that he has asked for better particulars. It is not the case of the applicant that remarks were not communicated. Taking stock of these facts, this plea so much thought of must fail.

17. The net result would be that the adverse remarks in the ACR for the period from 1.4.1990 to 31.3.1991 only stood diluted by the order passed by the appellate authority while deciding the appeal and it has its reflection only pertaining to Paragraph-2 of the same. This does not expunge the whole of the remarks and, therefore, it can only be allowed to the extent that Paragraph-2 of the remarks can only be taken to have been diluted because while the appellate authority recorded that his absence from duty was explained but the applicant was grossly negligent and careless in discharge of his official duties. He never made any proper departure entry before proceeding out of station and did not make proper presentation about his not being medically fit and about the traffic accident incident.


18. Consequently, we find little ground to interfere except to hold that Paragraph 2 of the remarks stood diluted in terms of the findings of the appellate authority dated 16.10.2003 and as regards the other remarks, there is no ground to interfere.

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19. With the above observations, the Original Application is disposed of.


(S.A. Singh)
Member (A)

/NSN/


(V.S. Aggarwal)
Chairman