

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.817/2004

New Delhi this the 15th day of July, 2005.

Hon'ble Mr. Shanker Raju, Member (Judl)

Mahmood Hassan,
S/o late Shri Dalel Khan,
R/o B-6/173, Main Road Brij Puri,
Delhi-110 094.

-Applicant

(By Advocate Shri S.K. Gupta)

-Versus-

1. Govt. of NCT of Delhi,
through Chief Secretary,
Delhi Secretariat, Players Building,
I.P. Estate, New Delhi-110002.
2. Commissioner of Police,
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi-110 002.
3. Joint Commissioner of Police (Traffic),
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi-110 002.
4. Deputy Commissioner of Police (Traffic),
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi-110 002.
5. Assistant Commissioner of Police (Traffic),
North-West District,
C/o D.C.P. (Traffic),
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi-110 002.
6. Om Prakash Sharma,
the then Traffic Inspector,
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi-110 002.

-Respondents

(By Advocate Shri Harvir Singh)

ORDER (ORAL)

Applicant impugns adverse remarks recorded in the ACR for the period 18.11.99 to 31.3.2000 as well as order dated 14.12.2000 and 23.9.2000, whereby his representations were rejected.

2. While working as Head Constable and posted in the reserve lines of Traffic Inspector Om Prakash Sharma posted at MTC acting as Reporting Officer conveyed adverse remarks to applicant to the extent of his alleged involvement in corrupt practice on 18.12.99.

3. On representation the adverse remarks have been upheld, giving rise to the present OA.

4. At the outset, learned counsel for applicant states that till 18.12.99 applicant was posted in MTC whereas vide DD No.13 dated 18.12.99 he had been transferred and posted to Research and Development Wing of Traffic at Model Town and had joined the same on 19.12.99. In this view of the matter it is stated that once he is gone out of the jurisdiction of the Reporting Officer on 18.12.99 he had not watched his performance from 18.12.99 to 31.3.2000, as such, having watched his performance from 18.11.99 to 18.12.99 ACR for the period 18.11.99 to 31.3.2000 when applicant had not worked for three months under the Reporting Officer is without jurisdiction and against the rules.

5. On the other hand, though respondents' counsel vehemently opposed the contentions, but on the pointed query a clarification has been sought from the departmental representative and on confirmation it has been found that whereas in MTC as well as in R&D two different Inspectors were posted and having gone out of MTC from 18.12.99 performance of applicant had not been watched by Inspector Om Prakash Sharma. As such, without having three months period during which the Reporting Officer had watched the performance of applicant the ACR is against the instructions.

6. I have carefully considered the rival contentions of the parties and perused the material on record. As per OM dated 20.5.1972, which is reproduced as under, if the Reporting Officer has not watched the performance of the reported officer who has not worked under him at least for three months the Reporting Officer cannot write his ACR:

"6. Frequency of reporting and eligibility to write a report.—While normally there should be only one report covering the year of report, there can be situations in which it becomes necessary to write more than one report during a year. There is no objection to two or more independent reports being written for the same year by different reporting officers in the event of a change in the reporting officer during the course of a year provided that no report should be written unless a reporting officer has at least three months' experience on which to base his report. In such cases, each report should indicate precisely the period to which it relates and the reports for the earlier part or parts of the year should be written at the time of the transfer or immediately thereafter and not deferred till the end of the year. The responsibility for obtaining confidential reports in

such cases should be that of the Head of the Department or the Office."

However, as per DoPT OM NO.21011/8/85-Estt.(A) dated 23.9.85 when there is no Reporting Officer having requisite experience of three months the report should be written by the Reviewing Officer.

7. From the perusal of the report we do not find that such a compliance has been made. Accordingly, I have no hesitation to hold that having not watched the performance of applicant at least for three months the adverse remarks recorded by the Reporting Officer are against the instructions and without jurisdiction.

8. In appeal this aspect of the matter has not been taken into consideration by the authority deciding the representation.

9. In the result, for the foregoing reasons OA is allowed. Impugned orders are set aside. Adverse remarks recorded in the ACR of applicant for the period 18.11.99 to 31.3.2000 are set aside with a direction to respondents to expunge the same from the record of applicant, within a period of two months from the date of receipt of a copy of this order. No costs.

S. Raju
(Shanker Raju)
Member (J)

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