

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA No.2024/92

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New Delhi this the 16th day of March, 1998.

Hon'ble Smt.Lakshmi Swaminathan, Member(J)
Hon'ble Shri K.Muthukumar, Member(A)

Shri Tej Bhan Sharma,
Hd.Constable(Min.),
NO.500/SD,8001/DAP,
General Branch,
O/O DCP/7th Bn.DAP,
Police Complex, Malviya Nagar,
New Delhi. ..Applicant

(By Advocate Shri P.T.S. Murthy)

Vs

- 1.Lt.Governor Delhi,
Delhi.
- 2.The Commissioner of Police,
Delhi,MSO, Building,I.P.Estate,
New Delhi.
- 3.The Deputy Commissioner of Police,
South Distt.,Hauz Khas, New Delhi
- 4.Shri Jagannath Sethi,
Inspector/Head Clerk,
South District,
O/O DCP,South District,
Hauz Khas, New Delhi. ..Respondents

(By Advocate Shri Vijay Pandita)

O R D E R (ORAL)

Hon'ble Smt.Lakshmi Swaminathan, Member (J)

We have heard the learned counsel for the parties and perused the pleadings. Learned counsel for the applicant has submitted that the main grievance which survives in this OA now is only regarding placing the name of the applicant in the "Secret list" of 9.6.92.

2. The brief facts of the case are that the applicant while working as Head Constable(Ministerial) was suspended w.e.f. 21.4.92. In the reply, the respondents have stated that on a complaint received by them on 21.4.92 from Mrs. Massoume Ghassamian that the applicant had demanded Rs.200/- for issue of certain certificates, he was placed under

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suspension by order dated 21.4.92. On this complaint, they have stated that admittedly a preliminary enquiry was ordered but finally, since no corroborative evidence was available, the applicant was reinstated in service w.e.f. 11.5.92 on revocation of his suspension, treating the intervening period as spent on duty. The respondents have also stated in their reply that after reinstatement of the applicant necessary NOC was issued by letter dated 26.5.92.

3. Shri P.T.S. Murthy, learned counsel for the applicant submits that the only grievance that survives in this OA is with regard to placing the applicant's name in the 'secret list' under the provisions of Standing Order(SO) No.265. He submits that as there was no enquiry or investigation for recommending the departmental enquiry or court trial as mentioned in paragraph 8(b) of SO. 265 issued by the respondents, there was no ground on which the applicant could have been placed in the secret list on 9.6.92. Admittedly after lapse of 3 years in accordance with the Rules and Instructions, the applicant's name has been removed from the secret list on 9.6.95 ^{he has} and _L has been subsequently promoted as ASI w.e.f. June, 1995..

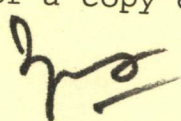
4. We have considered the submissions made by the learned counsel. From the reply filed by the respondents, we note that they have themselves stated that as no corroborative evidence was available on the complaint filed by Mrs Massoume Ghassamian on 21.4.92, they had decided to reinstate the applicant w.e.f. 11.5.92. Paragraph 8(b) of SO. 265 provides 'that the name of the officers against whom an enquiry or investigation has not brought forth sufficient evidence for recommending departmental proceedings or court trial shall *not been included in the 'Secret list'.*

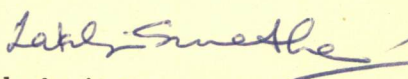
5. In this case, the respondents have not placed on

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record any document to show that they have either continued with the investigation/enquiry or instituted any departmental proceedings or court trial against the applicant on the complaint dated 21.4.92. In the facts and circumstances of the case, we are satisfied that under the provisions of SO 265 dated 27.1.1989, the contention of the applicant that there was no ground to place him in the 'secret list' is in order.

6. In the result, the O.A. is allowed to the extent that the placement of the applicant's name in the 'Secret List' w.e.f. 9.6.92 is quashed and set aside. The applicant shall be entitled to consequential benefits in accordance with the rules/instructions, for which Respondents shall take action within three months from the date of receipt of a copy of this order. No order as to costs.


(K.Muthukumar)
Member(A)


(Smt.Lakshmi Swaminathan)
Member(J)

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