

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
PRESIDENTIAL BENCH, NEW DELHI.

OA. No. 1116 of 1993

(12)

New Delhi dated this 17th January 1994  
**HON. MEMBER(JUDICIAL) SHRI C.J. ROY.**

Sita Ram Meena,  
S/o Gopi Ram,  
R/o Village & Post office Niwana,  
P.S. Gobindgarh,  
District Jaipur (Rajasthan).  
Presently working as SI, Bomb Disposal squad (South), Delhi Police. Applicant  
By Advocate Shri Shyam Babu.

Versus

1. The Deputy Commissioner of Police,  
South District, New Delhi.
2. Additional Commissioner of Police,  
(Southern Range),  
Police Headquarters,  
I.P. Estate,  
New Delhi.

By Advocate Shri S Adlakha.

ORDER(Oral)  
(delivered by Hon. Member(J) Shri C.J. ROY)

The applicant, presently working as Sub-Inspector in Bomb Disposal Squad (South) of Delhi Police has filed this application under Section 19 of the Administrative Tribunal's Act, 1985 aggrieved by adverse entry made in his ACR for the period from 1.4.91 to 31.3.92 and prays for quashing/expunging the same.

2. According to the applicant, the reporting authority has not given any specific evidence to the adverse entry made in the ACR but has taken extraneous consideration which has no nexus or bearing in passing the adverse remark. Secondly, he refers to the list of 10 cases, detected and handed over to the South District on 31.12.1991, in which the challans have been filed and the cases are pending in the Court. He states that he has never been communicated any warning

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or displeasures or particular instances to alert him. (B)

The adverse remarks according to the counter are based on 3 censures which have no bearing on the case. The first censure was in 13.8.90 which does not fall within the assessing period of ACR i.e. from 1.4.91 to 31.3.92. While admitting that 2 other censures on 7.6.91 and 11.12.91 fall in the concerned period, he categorically asserts that these censures cannot be taken into consideration while passing the adverse remarks since the object of passing the adverse remark is only to alert the officer concerned, so that, he can take remedical action. Besides, based on the counter affidavit at page-2, the adverse remarks are also assailed on the ground that the applicant was on unauthorised leave for 118 days from 28.12.90 to 24.4.91, which are treated as leave without pay. But the reporting period of ACR starts only from 1.4.91 to 31.3.92. ie. the reporting period can be taken only for 24 days from 1.4.91 during which days he was on leave without pay. The learned counsel for the applicant states that the reporting officer did not apply his mind to this aspect before making adverse entry in the ACR of the applicant.

3. I have heard the learned counsel for both parties and perused the documents on record. No doubt, it is true that the object of writing adverse remark is to afford an opportunity to a person to correct his defects and take remedial steps in future. Here, the adverse remark was communicated to him on 31.8.92, wherein, it should have been communicated to him on 31.5.92 ie. after a lapse of three months. The delay is explained by the respondents that it was

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the fault of the applicant in submitting his self appraisal report after 4 months from the date of issue. The moment he filed the self appraisal report on 10.8.92, the adverse remark was communicated to him on 31.8.92. However, this delay, as explained by the respondents is not palatable to me for the simple reason that the controlling officer over and above the applicant in getting the self appraisal report is not efficiently upto the mark. If there was delay on the part of the applicant, he should have taken steps to see that the self appraisal report has been sent by the applicant with <sup>T</sup>the time. I have also seen the details of the list of 10 FIRs filed by the applicant during the period of 1991-92. He has also received two commendation certificates from the counter signing authority i.e. Deputy Commissioner of Police which bears the OB.No.930/92 and OB.No.438/92 dated the 10th of March and has received a cash reward of Rs.250/- and Rs.200/- respectively for his good and hard work done by showing high sense of responsibility.

4. In the case of Gita Ram Gupta versus Union of India reported in AISLJ 1979 (7) page 732, it was observed that the delay in communication of the adverse remark is fatal. It does not serve the remedial purpose. It may be pertinent to mention that the applicant has already filed his representation, as urged by the learned counsel, and that it was disposed of at the latter stage by the Additional Commissioner of police. It is also brought to my notice the para-2 of the Instructions on writing of Confidential Reports, placed at page 38 of the paper book, in which it is stated as follows:

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"In giving adverse entries, the officer must remember

- (i) the exact instance when the officer/official misbehaved or was found wanting in the performance of his duties.
- (ii) whether he was ever reprimanded orally for his mistake or slackness.
- (iii) any other steps the reporting officer took to ensure that the same lapse was not repeated.

Officers would do well to remember that every person receiving an adverse entry has the right of representation and unless the officer can substantiate the specific instances and the frequency of the lapses he is referring to, the Administration has no option but to expunge the remarks for lack of concrete examples.

5. In view of the decisions, observations and guidelines cited supra and in view of the agreement of the learned counsel for both parties that this case could be disposed of with the directions, I hereby dispose of this matter with the following orders and directions:-

1. The applicant is directed to file a representation before the respondents within a period of one month from the date of communication of this order and the respondents after receiving a copy of the representation from the applicant within the stipulated time, shall dispose it of, within a period of two months from the date of receipt of the representation giving specific instances and materials as per the instructions cited on the basis of which the adverse remark has been communicated to the applicant.
2. If the applicant is aggrieved, he is at liberty to approach this Tribunal.
6. The OA is thus disposed of. No costs.

*W.Roy*  
(C.J. ROY)  
17.1.94