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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A.No.2021/93
New Delhi, this the 30th day of September 94.
HON'BLE SHRI P.T.THIRUVENGADAM MEMBER(A)

Hira Lal son of Shri Jas Ram,
r/o J-3, Police Colony,
Model Town-II, Delhi.
(By Advocate Shri VP Singh)

..Applicant

Vs.

1. Commissioner of Police,
Police Headquarters,
I.P.Estate, New Delhi.
2. Additional Commissioner of Police,
Northern Range,
Police H.Qrs. IP Estate,
New Delhi.
3. Deputy Commissioner of Police,
Central District,
Darya Ganj, New Delhi.
4. Assistant Commissioner of Police,
Kamla Market, Circle,
Central District,
Kamla Market, New Delhi.

..Respondents

(By Shri S. Oberoi for Shri Angop Begai
Advocate)

ORDER

HON'BLE SHRI P.T.THIRUVENGADAM MEMBER(A)

The applicant was working as Sub Inspector in Police Station, Kamla Market and he was given the following adverse remarks for the period relating to 23-10-90 to 26-2-91. The adverse remarks were communicated to him by letter dated 13-3-92.

"In the ACR of SI/Hira Lal, No.D/1933 for the period from 23-10-90 to 26-2-91, it has been mentioned that there is no complaint against his moral character. His reputation for fair dealing with the public and accessibility to the public is fair. He is impartial, courteous, loyal and takes interest in modern methods of investigation and in modern police methods generally. His attitude towards subordinates and relations with fellow officers is cordial. His general power of control and organising ability, personality and initiative, power of command, preventive and detective ability and working experience of criminal law and procedure is satisfactory. His efficiency on parade is

good. He was awarded a minor punishment of censure by DCP/C vide order No.3647-62/HAP-C dated 12-3-91 for delay in lodging FIR. His honesty is doubtful. Against the column of reliability it has been mentioned that he needs close supervision. Against the column of general remarks it has been mentioned that the SI worked as Division Officer, Div.No.4 i.e. 1st half of G.B.Road. A huge unauthorised construction of commercial type took place at premises No.5224 G.B.Road with the knowledge/connivance of the SI. A detailed report was sent to the office of DCP/C vide No.1028/ACP-KM dated 5-2-91. Otherwise his work and conduct remained satisfactory. The ACR has been categorised as 'C'.

The above remarks may be conveyed to SI/Hira Lal, No.D/1933 against proper receipt which may be sent to this office for record. The SI can represent against these remarks within 30 days of its receipt, if he so desires."

2. The applicant made an appeal against the adverse remarks on 21-4-92. This appeal was rejected on 15-7-92. His further representations to higher authorities have not been entertained. This O.A. has been filed with a prayer for quashing the adverse remarks as well as the rejection of the appeal. The applicant has also prayed for upgradation of his ACR for the said period.

3. The learned counsel for the applicant argued that the adverse remarks have been based on a single incident of unauthorised construction. It is his case that the applicant cannot be issued adverse remarks on this ground since as per relevant office circulars it is not the business of the police officers to interfere with the erection or non-erection of any structure/buildings on private lands or lands that do not belong to the government. The police are to take cognisance of encroachments/unauthorised constructions when a complaint is lodged by the designated officials of

the Municipal Corporation.

4. On this, the learned counsel for the respondents pointed out that the local situation was such that there was every possibility of tension developing in the area because of the unauthorised construction. There was one group which was against this construction. The respondents admit that the subject of unauthorised construction is the job of municipal corporation but the police should not/cannot be privy to such unauthorised construction in a sensitive situation like this and the matter should have been reported to the municipal authorities earlier. Such reporting to the municipal authorities took place belatedly only when there was tension in the area and realising that any further passivity would only expose the concerned persons.

5. In the circumstances, I agree that the applicant cannot disown the responsibility by quoting the general instructions that the police are not expected to interfere with the erection or non-erection of unauthorised structures unless the specific body concerned requests for demolition. The sensitive situation in this case has cast a specific onus on the police officials.

6. It was then argued that the applicant was away to Bombay on an official work during the crucial period namely from 23-1-91 to 30-1-91. The complaint to the M.C.D. authorities was made on 29-1-91 and hence the applicant cannot be blamed for the development. This argument was refuted by the respondents who referred to the inquiry conducted into the incident. The inquiry has brought out that there was reason to believe that unauthorised construction had been going on for at least 15 days prior to 24-1-91 when the concerned constable made a round and found the unauthorised construction fairly well advanced. The applicant being the Division

Officer of the area cannot be absolved of his responsibility simply because he proceeded on tour to Bombay on 23-1-91.

7. The learned counsel for the applicant then referred to the adverse remarks passed against another SI Shri Maharaj Singh, which adverse remarks were later expunged on representation. It was argued that the applicant has been discriminated.

8. The stand of the respondents is that Shri Maharaj Singh was not incharge of this particular area and was asked to look after the work of the applicant during the applicant's absence on tour to Bombay. It has been brought out that on 29-1-91 the concerned ACP received a telephonic information that some unauthorised construction was going on and tension in the area was building up on this account. The SHO of the area and Shri Maharaj Singh were then alerted and after further instructions, action was taken to inform the municipal authorities and for defusing the situation. The treatment given to Shri Maharaj Singh who was not directly incharge of the area, cannot be held to be discriminatory.

9. The delay in conveying the adverse remarks was then cited as something adverse to the applicant. I do not see any merit in this ground.

10. While conveying the adverse remarks, a reference to the punishment of censure as per letter of 12-3-91 was mentioned. It was argued by the learned counsel for the applicant that such a mention in the ACR for the period from 23-10-90 to 26-2-91 is improper and prejudiced.

11. The respondents have, however, explained that the censure was a sequel to an incident on 8-11-90 which is a date covered by the ACR period. The appeal against the censure has already been rejected.

12. In the circumstances, I hold that no prejudice has been caused by mentioning the censure in letter dated 12-3-1991.

13. In the circumstances, the O.A. is dismissed.
No costs.

P.T.Thiru

(P.T.THIRUVENGADAM)
Member (A).

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