

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A.No.2720/93

New Delhi, this the 8th day of July, 1994

HON'BLE SHRI C.J.ROY, MEMBER (J)

Constable Mukesh Kumar No.7496/DAP,
s/o Shri Ramesh Dutt Sharma,
C/O VI Battalion, D.A.P.,
Model Town, Delhi.

(By Shri Shankar Raju, Advocate)

..Applicant

Vs.

1. Govt. of National Capital
Territory of Delhi, through:
Deputy Commissioner of Police,
Central District, Daryaganj,
New Delhi.

2. Shri D.S.Sangha,
Asstt.Commissioner of Police,
P.S.Paharganj, New Delhi.

(By Shri M.K.Giri, ADVOCATE)

..Respondents

ORDER (DRAFT)

HON'BLE SHRI C.J.ROY, MEMBER (J)

This is an application filed by the applicant claiming relief that the adverse remarks passed by the Reviewing Officer (An.A2 p.12) in his A.C.R. for the period from 1-4-91 to 7-1-92 may be set aside/expunged. The adverse remarks recorded by the Reviewing Officer on 30-4-92 are as under:-

"I do not agree. He misbehaved with a shopkeeper and quarreled under influence of liquor for which he was placed under suspension."

The applicant further states that these are, in fact, not adverse remarks but a charge levelled against him when he was posted at P.S.Desh Bandhu Gupta Road, and that he was placed under suspension and a departmental inquiry was proceeded against him on the said charge. The inquiry was completed by a senior officer and in his findings the Inquiry Officer concluded that the charge levelled upon the applicant was not proved. Ultimately the

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Disciplinary Authority revoked suspension orders and the applicant having been exonerated was reinstated on duty and transferred to a different station on 5-3-1992 (An.A1). The Reviewing Officer has recorded the same charge as an adverse remark on 30-4-1992 i.e. subsequent to the exoneration of the charge levelled against the applicant.

2. I have seen the counter also which contends that the Reviewing Authority has the right to pass remarks on the work and conduct of the employees but I find that he has not given any ~~justification~~ ^{any} reason at all for disagreeing with the report of the Reporting Officer.

3. The rest of the allegations made are not germane to the main issue.

4. The short point for consideration is whether the Review Officer can write such a remark after the applicant was exonerated of the same charge against him. No doubt, that there is no bar holding the Reviewing Authority for recording independent opinion but while doing so it needs to be borne in mind that the adverse remarks should have a nexus with actual happenings. Though adverse remarks cannot be called as a punishment, it will cause hardship to the applicant for his future prospects of his career. In this case I find that there is no justification for the Reviewing Authority particularly when the confidential report was written subsequent to the exoneration of the applicant of the same charge which has been recorded as an adverse remark. I do not feel convinced about it and find that the remarks of the Reviewing Authority are totally unjustified and against the natural justice for the simple reasons that the applicant was already exonerated of the same charge which was subsequently reported

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against him in his A.C.R. I therefore direct
the respondents to expunge the said remarks
from the A.C.R of the applicant for the period
from 1-4-91 to 7-1-1992.

5. In view of the above orders, the rest
of the points raised are not discussed. No costs.

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refor
(C.J.ROY)
Member (J)