

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.971 of 1993

New Delhi, this the 5th day of November, 1993.

CORAM

THE HON'BLE MR B.N.DHUNDIYAL, MEMBER(A)

Ved Prakash Son of Shri Dharam Singh,
r/o House No.481, Gali No.34, Okkar Nagar, 'C',
Tri Nagar, Delhi-35. Applicant.

(by Advocate Mr A.S.Grewal)

vs

1. Commission of Police Delhi,
Delhi Police Headquarters,
M.S.O. Building, I.P.Estate,
New Delhi.
2. Additional Commissioner of Police,
Armed Police Delhi,
Delhi Police Headquarters, MSO Bldg.,
I.P.Estate, New Delhi.
3. Deputy Commissioner of Police
IIIrd Bn.D.A.P. New Police Lines,
Kingsway Camp, Delhi. Respondents.

(by Advocate Mr Surinder Adlakha)

ORDER (oral)

The applicant Shri Ved Prakash is aggrieved by an adverse entry recorded in his A.C.Rs for the period 1.4.90 to 31.3.91, mentioning that he is facing departmental inquiry. ^{As} He wrote wrong date of birth in pension case which resulted in the pensioner serving the department for a longer time beyond the actual date of superannuation.

2. According to the applicant, in the year 1990, when he was posted in the office of D.C.P. 3rd Bn.D.A.R, a departmental enquiry was initiated against him which was finalised on 7.12.91 resulting in the punishment of censure. During

the pendency of this departmental inquiry, the applicant was communicated the adverse remarks for the period from 1.4.90 to 31.3.91 vide the impugned letter dated 10.8.91(Annexure A-1). His contention is that the remarks were not based on any material available with the reporting officer. He is also aggrieved that his representation was rejected through a non-speaking order(Annexure A-2). He has prayed that the impugned orders dated 10.8.91 and 27.1.92 may be set aside.

3. In the counter filed by the respondents, the averments are these. In the year 1990, while posted in III Bn.DAP he was dealing with the pension cases. He prepared the pension case of the then Head Constable Shiv Pujan and submitted his note on 21.5.90, mentioning the date of birth and retirement as 20.9.32 and 30.9.90 respectively. The actual date of birth and retirement was 20.1.32 and 31.1.90 respectively. Since the departmental inquiry was ordered on 20.12.92, these facts were recorded in his ACRs for the period 1.4.90 to 31.3.91.

4. We have heard the learned counsel for the parties. The learned counsel for the applicant has drawn my attention to O.M.dated 4.10.74 clarifying that a mention of pendency of a D.E. should be made as it would only be a statement of fact in the A.C.Rs. The mention of this fact should however not be treated as an adverse entry and it should not be communicated to the officer or expunged. However, as and when the enquiry is finalised, its result should invariably be mentioned in the Confidential report. In the present case, the remarks have been treated as an adverse entry and ⁱⁿ fact been communicated

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to the officer concerned. As the inquiry has already been completed and the punishment awarded i.e. 'Censure' could be reflected in the A.C.Rs of the relevant year, I see no reason why these remarks should stand in the A.C.Rs. I, therefore, direct that these remarks shall be expunged from the A.C.Rs.

5. There will be no order as to costs.

B.N.Dhundiya
(B.N.Dhundiya) 5/11/93
Member(A).

/sds/