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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.1031/1993

New Delhi, this the 3<sup>rd</sup> day of November, 2003.

Hon'ble Shri Justice V.S. Aggarwal, Chairman  
Hon'ble Shri S.A. Singh, Member(A)

Sukhbir Singh  
Sub-Inspector  
(D-1425)  
S/o Shri Bhim Singh  
R/o C-507, P.T.S.Colony  
Malviya Nagar  
New Delhi-110017.

.. Applicant

(Shri Shyam Babu, Advocate)

versus

1. Delhi Administration, Delhi  
through its Chief Secretary  
5, Sham Nath Marg  
Delhi-110054.
2. Commissioner of Police,  
Delhi  
Police Headquarters  
I.P.Estate  
New Delhi-110002.

.. Respondents

(Shri D.N.Goverdhun counsel and  
Ms.Geeta Luthra, counsel)

ORDER

Justice V.S. Aggarwal

Applicant (Sukhbir Singh) was a Sub Inspector in Delhi police. He had been enrolled as such on 27.5.1975 and confirmed on 26.8.1978. It was alleged that on 28.3.1990, a search was organised by the Deputy Commissioner of Police (Traffic) in Punjabi Bagh circle. It was found that the radar checking was being conducted by the Traffic Inspector/Punjabi Bagh along with 4 ZO's at Pitampura on the outer ring road. The applicant was a Z.O. at that time. He challaned one truck. It was



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found that he had accepted Rs.200/- as compounding free from the driver and returned the driving licence. The applicant only acknowledged the receipt of that amount on the copy of the challan given to the driver but did not make any entry on the copy in his challan book which should have been done simultaneously. A show cause notice had been served which reads:-

"During a surprise check organised by the undersigned on 28.3.90 at 4.45 p.m. in Punjabi Bagh Circle found that radar checking was being conducted by TI/Punjabi Bagh alongwith 4 ZOs at Pitampura on Outer Ring Road. SI Sukhbir Singh, D-1425, a ZO challaned one truck driver in which he seized his driving licence. Later he accepted Rs.200/- as compounding fees from the driver and returned his driving licence. The SI only acknowledged the receipt of that amount in the copy of challan given to the driver but did not make any entry in his challan book which should be done simultaneously. The above act on the part of SI Sukhbir Singh, No. D-1425 amounts to gross misconduct in the discharge of his official duties.

He is, therefore, called upon to show cause within 15 days of the receipt of this notice as to why his conduct should not be censured for the above lapse. His reply, if any, should reach the undersigned within the stipulated period, failing which it will be presumed that he has nothing to say in his defence and the case will be decided on merits."

The conduct of the applicant was censured by the competent authority vide the order of 1.10.1990. The applicant had preferred an appeal. The same was rejected.

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2. The names of eligible Sub Inspectors (Executive) along with the applicant were considered by the Departmental Promotion Committee for admission of their names to the Promotion List 'F' (Executive) on 26.8.1992. The applicant was found unfit for admission of his name to List 'F' in view of serious charges.

3. The applicant assailing the said decision, by virtue of the present application prays for a direction to bring his name on the Promotion List 'F' with effect from 26.8.1992 and to place his name between Sl.Nos.24 and 25.

4. The application has been contested. According to the respondents, the applicant was found unfit for admission of his name in Promotion List 'F' in view of serious charges of acceptance of bribe which were proved and he was censured. His name had not been ignored but was considered. It was admitted that the censure cannot withhold promotion, but keeping in view the gravity of charges levelled against the applicant and considering honesty and efficiency as the main factors for promotion, he was not considered suitable.

5. This application had come up for hearing on 16.3.1999. On behalf of the respondents, a concession was made and the application was disposed of holding:-

"3. Respondents' counsel Shri Mathur states

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that the applicant was not brought on to promotion list 'F' (Executive) w.e.f. 26.8.92 because of punishment of censure inflicted upon him on 1.10.1990 and very fairly concedes that the penalty of censure had lost its value after six months of its infliction and the applicant could not be justifiably denied the consideration for being brought on to Promotion List 'F' (Exe) w.e.f. 26.8.92.

4. Accordingly, the OA is disposed of with a direction to respondents to consider applicant's prayer for bringing his name on Promotion List 'F' (Exec.) w.e.f. 26.8.92, with all consequential benefits, within a period of one month from the date of receipt of a copy of this order, after ignoring the censure dated i.e. 1.10.90. No costs."

The respondents had challenged the said decision by filing Civil Writ Petition No.5624/1999. The Delhi High Court had dismissed the said petition on 13.9.2000 but the respondents were permitted to approach the appropriate forum in accordance with law.

6. The respondents preferred Review Application No.75/2001. On 8.8.2001, this Tribunal taking note of the facts and circumstances of the case held that concession made by the respondents was erroneous. The Review Application was allowed and the order dated 16.3.1999 was recalled. This time, the applicant filed Review Application No.296/2001 taking certain pleas for recalling the order passed in the earlier Review Application. This Tribunal recorded that there was no error apparent on the face of the record and the Review Application was dismissed. The Civil Writ Petition No.8236/2002 had been filed in the Delhi High Court by the applicant. The Delhi High Court on 4.8.2003



clarified that the pendency of the writ petition will not debar this Tribunal from proceeding further in the present application. It is in this back-drop that the present application has been heard.

7. The learned counsel for the applicant urged that the penalty of censure had been imposed. It could only restrict the promotion of the applicant for a period of six months because it was not a penalty as a result of any moral turpitude. He relied upon the findings of the Deputy Commissioner of Police (Traffic) dated 1.10.1990 to contend that no moral turpitude had been attributed to the applicant. On the contrary, the respondents' learned counsel urged that the applicant had earlier filed OA No.610/1996. It was decided by this Tribunal on 1.2.2001 and pertaining to the same censure order, this Tribunal had clearly held that it involved moral turpitude.

8. So far as the order passed by the Deputy Commissioner of Police (Traffic) on earlier occasion is concerned, it was held:-

"It is also clear that to maintain a semblance of everything being above board, he has only signed on the copy of the challan given to the violater regarding the receipt of Rs.200/-. Under the circumstances, I have no option but to confirm the proposed punishment. The conduct of SI Sukhbir Singh, No.D-1425 is, therefore, censured."

When the matter went in appeal, on 1.4.1991, the Additional Commissioner of Police dismissed the same but

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did not record anything pertaining to moral turpitude and held:-

" I heard the petitioner and also gone through the record. It is a fact that the petitioner did not make endorsement immediately on the copy of the receipt/challan when he endorsed the original receipt/challan. This is the reason why he has been censured. There was no difficulty for him to endorse the copy also. Appeal is rejected. Let the appellant be informed accordingly."

We have strong reservations. The order of the disciplinary authority merged with that of the appellate authority. The appellate authority had simply mentioned about the censure <sup>to</sup> ~~of~~ the applicant because he did not make endorsement immediately on the copy of the receipt/challan.

9. However, when this very censure had been considered by this Tribunal, it was recorded that there was a serious charge of corruption. It was observed as under:-


"13. Matters of promotion are essentially the domain of the D.P.C. Whether a particular candidate is or is not entitled to the grant of promotion is for the D.P.C. to decide. This is not and cannot be the domain of the Tribunal. Claim of the applicant for promotion has been considered by the D.P.C. It is, therefore, not a case of non-consideration. After due consideration, he has been found unfit. This has been done after considering the aforesaid penalty of censure which has been issued for a serious charge of corruption. The D.P.C. was fully justified in considering the same. In the circumstances though the applicant may have a strong technical ground in his favour based on the decision of the Tribunal of 16.3.1999 in OA No.1031/1993, we do not find this, as already stated, a fit case for interference in our extraordinary and discretionary jurisdiction."


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10. When this question has already been adjudicated, it becomes unnecessary for us to re-adjudicate the said controversy. This Tribunal would always remain nothing but a servant of law. But once there is adjudication by this Tribunal that the charge against the applicant was serious charge of corruption, the feelings or once own findings will have no role to play. The claim keeping in view this important fact which is no more res integra between the parties must fail and is rejected.

11. In the absence of any other plea, the application being without merit must fail and is dismissed. No costs.

  
(S.A. Singh)  
Member (A)

  
(V.S. Aggarwal)  
Chairman

/sns/