

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 22nd DAY OF October 2010)

PRESENT:

HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A

ORIGINAL APPLICATION NO. 1114 OF 2001
(U/s, 19 Administrative Tribunal Act.1985)

Dinesh Kumar Chaturvedi, son of late Shri Swaroop Narain Chaturvedi, resident of C-249, R.B. II Railway Colony, Agra Cantt. Applicant

By Advocate : Shri P.C. Mishra

Versus

1. Union of India through Director General Railway Protection Force Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.
2. Inspector General/Chief Security Commissioner, Railway Protection Force, Central Railway, C.S.T., Mumbai.
3. Senior Divisional Security Commissioner Railway Protection Force Jhansi.
4. Asstt. Security Commissioner (Prosecution) Railway Protection Force, C.S.T. Mumbai.

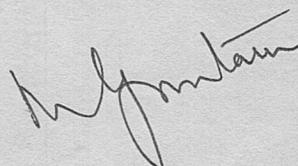
.... Respondents

By Advocate : Shri K.P Singh

ORDER

This O.A. has been filed by the applicant seeking the following relief(s):-

- "(i) *To set aside the orders dated 27.7.2001 and 30.7.2001 passed by the respondent NO.2.*
- (ii) *To set aside the adverse remarks given in the confidential report by order dated 17.5.2000, 5.8.2000, 22.3.2001 and 12.6.2001*



(iii) Any other and further order or direction which this Hon'ble Tribunal may deem just and proper in the circumstances of the case.

(iv) To award cost to the applicant".

2. The applicant was appointed on the post of Public Prosecutor, R.P.F. at Jhansi on 2.8.1999 and was on probation for the period of 2 years. The applicant while on probation was awarded adverse entry for the year ending 1999 vide letter dated 12.5.2000 (Annexure A-2). Subsequently he was given a written warning vide letter dated 5.8.2000 (Annexure A-3) and an adverse remarks for the confidential report for the year ending 2000 vide order dated 23.3.2001 (Annexure A-4) and an additional adverse remarks was communicated to him vide letter dated 12.6.2001 (Annexure 5).

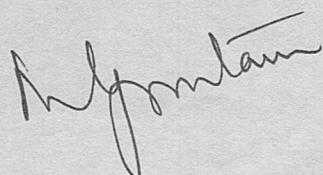
3. The applicant made representations dated 17.5.2001 and 16.7.2001 against adverse remarks for the year ending 2000, which was rejected vide order dated 27.7.2001. The applicant has also submitted his representation against the warning issued to him vide letter dated 6.7.2001 but his representation was rejected on the ground of appeal being time barred vide letter dated 30.7.2001 (Annexure 6).

4. The case of the applicant is that he did not fall in line with Sri Balvindar Singh Saini, railway contractor and also reported incident to the higher authority vide letter dated 10.1.2000. Shri Balvinder Singh Saini was receiving protection from Shri Pranav Kumar, D.S.C. , who has made adverse remarks in his C.R. for the



year ending 1999. According to the applicant, the Prosecution Branch is under the control of A.S.O.P. and that respondent NO. 4 alone is competent to write his confidential report. The applicant has also stated that it is on the complaint of Balvindar Singh Saini that the warning was issued to the applicant on 4.8.2000 and no opportunity was given to the applicant to defend himself. The representation of the applicant against the warning letter was rejected on the ground of being time barred, whereas the applicant had given strong reason for delay while submitting his representation. The applicant has also stated that adverse remarks for the year ending 2000 are also not based on facts but were given because of corruption prevailing in the administration. The applicant has stated that inspection of prosecution cell was conducted by Shri N.K. Saxena, Senior D.S.C. Jhansi on 16.12.2000, according to which, his work was found to be good and he was awarded commendation certificate.

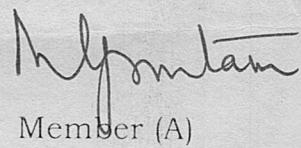
5. In the counter affidavit filed by the respondents, it has been stated that adverse remarks in the A.C.R. of the applicant are based on facts and on his performance. Counter Affidavit also states that respondent No. 4 was authorized to record the confidential report of the applicant. According to the relevant circulars, control over the staff of prosecution branch of Railways, shall be shared functionally between the Division and Security Commissariat. Counter Affidavit also states that the applicant had unauthorisedly occupied one room of Railway Court premises and used the same as his residence while also claiming House Rent Allowance. This has been rebutted by the applicant in his



rejoinder. He has also stated that Railway Magistrate Shri D.K. Tyagi asked the applicant to vacate the room in which the office was running because he wanted to use this room as his retiring room. The applicant represented to the District Judge, Jhansi and Hon'ble Chief Justice, Allahabad and also Public Prosecutor, and he was allowed to continue in the same premises.

7. I have heard both the counsel and perused the records on file. This matter pertains to the year 1999. The applicant has leveled many accusations against respondent NO. 4 and against the Railway Magistrate Shri D.K. Tyagi. In turn the respondents have accused the applicant of converting into his office as his residence but without any proof. It is not for this Tribunal to go into these accusations after such a long lapse of time. Scope of the Tribunal is to examine whether the adverse entries awarded to the applicant were as per rule or not and whether the rejection of his representation was also as per Rules. On the basis of record on file, it is evident that there was sufficient basis for recording the adverse remarks. The applicant was provided an opportunity for representing against the adverse remarks, which he availed. Speaking order considering the points raised in his representation have been passed by the appropriate authority.

8. In view of the same, I see no reason for interfering in the above matter. O.A. is accordingly dismissed as being devoid of merits. No costs.


Manish
Member (A)

Manish/-