

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO 557/2004

FRIDAY, THIS THE 14th DAY OF OCTOBER, 2005.

C O R A M

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

Dr. P.T. NANDAKUMAR
Superintendent of Police
Special Branch CID(Administration)
Thiruvananthapuram.

..Applicant

(Mr.N.Nanda Kumara Menon, Advocate.)
Vs.

- 1 The Union of India represented by
the Secretary, Home Department
New Delhi.
 - 2 The State of Kerala represented by their
Chief Secretary, Government of Kerala
Secretariat, Thiruvananthapuram.
 - 3 The Principal Secretary to Government
Home (SSB) Department, Government of Kerala
Secretariat, Thiruvananthapuram.
 - 4 The Director General of Police, Kerala
Kerala State Police Head Quarters
Vazhuthacaud, Thiruvananthapuram.
- .. Respondents.

By Advocate Mr. TPM Ibrahim Khan, SCGSC for R-1.
By Advocate Mrs Lalitha Nair, GP for R 2-4

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicant who belongs to the Kerala State Police Service was appointed to the Indian Police Service in 2002 and is at present working as Superintendent of Police (Special Branch) in the Special Branch C.I.D. Of

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the Kerala State Police Department. According to the applicant he has unblemished and meritorious service of 32 years and 6 months in the Kerala State Police Department and has received 66 Good Service Entries, two Cash Awards and two meritorious Service Entries and possesses Post Graduate Degree in various subjects and a Doctorate Degree in Criminology. The applicant was recommended by the State Government for the award of President's Police Medal for meritorious service for the year 2002 and his grievance is that even though he was awarded the Medal it was not released to him on the 26th January, 2002 in the Republic Day function held by the State Government and no reason so far is communicated to him. Later on the applicant amended the O.A. with the permission of the Court on the ground that he had received copies of the communication withdrawing the recommendation of the State Government for the award of Police medal and the cancellation of the same by the Government of India (Annexure A-10 and A-11) and challenging the same.

2 The chronology of events as submitted by the applicant is stated briefly as under. The State Government recommended the name of the applicant for award of President's Police Medal for meritorious service for the year 2002 in accordance with the rules. A communication was received on 25.1.2002 from the Union Home Ministry informing the State Government that the President has been pleased to award President's Police Medal to the applicant (Annexure A1) and that wide publicity should be given in the news papers and the award should not be released before 25.1.2002. The State Government had given wide publicity to this news item which appeared along with the photograph of the applicant in all the leading daily news papers (Annexure A2). But on the 26th January, 2002

in the Republic Day function his name was not included in the list of officers to be awarded the Medal. The applicant thereafter submitted a representation dated 3.8.2002 to the Hon'ble Chief Minister (Annexure A3) and another representation to the Principal Secretary, Home Department requesting to take appropriate steps for release of the Medal (Annexure A4 and A5). The applicant received copy of communication from the State Home Department informing him that the name of the applicant has been deleted by the Government of India (Annexure A6). The State Government informed the Government of India by letter dated 1.8.2002 that the State Government is withdrawing the recommendation in respect of the applicant for the award of the President's Police Medal on the occasion of Republic Day 2002. (Annexure A-10) and a notification dated 27.8.2002 was published in the Gazette of India dated 14.9.2002 deleting the name of the applicant from the notification dated 26.1.2002 awarding the Police Medal to the applicant (Annexure A-11).

3 It is contended that the statutes and rules governing the award of President's Police Medal prescribe that a medal is liable to be forfeited only when the holder is guilty of disloyalty, proved cowardice in action or such conduct as in the opinion of the President brings the force into disrepute. There were no such valid reasons for denying the applicant the release of the Police Medal once it has been announced and the withdrawal is totally vitiated and arbitrary, and based on extraneous reasons. The applicant therefore seeks setting aside Annexures A-10 and A-11 orders and direction to the respondents to release the Medal to him.

4 The reply statements have been filed by the the respondents. The



Government of Kerala represented by the second and third respondents have filed a detailed reply statement in which it is admitted that the Screening Committee under the Government recommends officers to Government of India for the President's Police Medal based on list of officers furnished by the Director General of Police and the Director, Vigilance and Anti-Corruption Bureau and accordingly, the recommendations including that of the applicant was sent to Government of India vide letter dated 16.11.2001. The recommendations were made on the basis of the proforma particulars submitted by the Director General of Police and Director Vigilance and Anti-Corruption Bureau recording 'Nil' entry against the column relating to details of punishments. Later, on verification of personal files it was found that four out of the seventeen nominees including the applicant have been awarded punishment. This position was reported to the Government of India by letter dated 9.1.2002. On 23.1.2002 a communication was received from the President's Secretariat (R-3) that the President had approved the award of President's Police Medal for Distinguished Service to two officers and Police Medal for Meritorious Service to five officers including the applicant. Thereafter the Government of India requested the State Government to send the details of charges relating to the applicant vide letter dated 17.6.2002 for which the applicant was awarded the punishment of censure twice. The State Government furnished the details on 1.8.2002 and the Government of India sought advice of the State Government whether the State would recommend the award to the applicant in view of the two censures awarded to him. The State Government considering the charges levelled leading to the award of two 'censures' decided to withdraw the recommendations and informed the Government of India accordingly. In

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view of the withdrawal of the recommendations by the State Government the Govt. of India issued a notification dated 27.8.2002 deleting the name of the applicant from the medal list. The applicant filed a representation requesting for releasing of the medal stating that the two 'censures' recorded against him have been expunged by the State Government vide G.O.No. 316/2003/Home dated 26.2.2003. It is submitted by the respondents that since the name of the applicant have already been deleted by the Government of India, releasing the medal was not possible and therefore the Government have directed the Director General of Police to consider his recommendation next time as the punishment of two censures against him have been expunged by Government. The deletion of the name has been done in accordance with the statutory rules relating to the award of President's medal and mere satisfaction of minimum qualification prescribed in the guidelines does not entitle an officer to be recommended for the medal as only the fittest of the officers strictly on merit are recommended. Nobody can claim awards as a matter of right and hence the action of the State Government in withdrawing the recommendations for the applicant taking note of the punishment of the grave charges leveled against him was in order.

5 A rejoinder has been filed by the applicant again reiterating the position that there is no provision in the rules for withdrawal of the medal once it has been awarded except for the sufficient reasons specifically mentioned in the circulars issued by the Central Government. He has refuted the contention of the State Government that the applicant's name was recommended to Government of India mistakenly and maintained that there is no legal ground for the withdrawal of the medal.



6 The arguments of the learned counsel for the applicant were also on the same lines that after the medal was awarded to the applicant by the President of India the State Government could not have withheld the release of the medal on 26.1.2002 namely the Republic Day when the Rules do not permit withdrawal of the recommendation and the only course open is for forfeiture of the medal if he was found guilty of disloyalty, proved cowardice inaction or such conduct as in the opinion of the President brings the force into disrepute. The conditions prescribed in clause 8 of the Rules relating to the award of President's Police Medal notified on 1st March, 1951 are to be fulfilled, and the respondents have no such case against him.

7 The Statutes and Rules relating to award of President's Police medal and the Police medal issued by the President's Secretariat notification No.3-Pres and 4 Pres dated 1st March, 1951 as amended upto the 29th February, 2000 govern the award and subsequent actions to be taken in respect of these medals. The statute provides that the names of those to whom this medal may be awarded may be published in the Gazette of India and a Register of such names may be kept in the Ministry of Home affairs by such person as the President may direct. Nowhere in the statute or in the rules it is provided that the medal has to be released on the Republic Day. Normally it is a practice and custom to award these medal in a function organised by the State Government on the 26th January but it does not appear to be mandatory that the award of this medal should be followed by release in a State function. Therefore, the legal position is that once it is published in the Gazette of India it should be deemed to have

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been awarded. Such a notification in the case of the applicant appears to have been issued by the Government of India as stated in their letter dated 23.1.2002 through which the approval of the President to the award was conveyed from the President's Secretariat (R3-6).

8 The second point raised by the applicant is that there is no provision for withdrawing the medal once the medal is awarded and only forfeiture is possible. This position is also not borne out by the rules. According to clause 7 of the Statute it is competent for the President to cancel or annul the award to any person. The provision is extracted below:-

"Seventhly: It shall be competent for the President to cancel and annul the award to any person of the above decoration and that there upon his name in the Register shall be erased. It shall, however, be competent for the President to restore any Decoration, which may have been so forfeited. Every person to whom the said decoration is awarded shall, before receiving the same, enter into an agreement, to return the medal if his name is erased as aforesaid. Notice of cancellation or restoration in every case shall be published in the Gazette of India".

It is true that there is a provision for forfeiture also if the holder is found to be guilty of disloyalty or of any action which brings the force in to disrepute. Both these provisions are independent of each other and the provision regarding forfeiture does not take away the competence of the President to cancel/annul the award. A complete reading of the statutory rules would reveal the word 'cancel' and 'annul' have been used to refer to the award as such and forfeiture to the "medal". Therefore, on a perusal of the rules we are not able to agree with the argument of the learned counsel for the applicant that the President is not empowered to cancel an award which has already been notified.

9 Coming to the next contention of the applicant that the State



Government had acted beyond their powers in first recommending his case and thereafter withdrawing the recommendations without any sufficient reasons. We find that the State Government had acted on the wrong particulars furnished by the concerned officer/department and immediately on having detected the same, the State Government had informed the Government of India on 9.1.2002 itself well in advance of the Republic Day function on 26.1.2002. However, before this information could be acted upon, the President Secretariat had already processed the matter and issued the letter conveying the decision of the President to award the medal to the persons mentioned therein based on the earlier recommendations including the applicant on 23.1.2002. However, immediately on 25.1.2002 on receipt of the letter of the State Government, the Government of India wrote back to the State Government asking for details of the charges in respect of the applicant. Presumably for this reason the medal was not released on 26.1.2002 though it has not been stated explicitly. Again in June, 2002 the Government of India, Ministry of Home affairs decided to ask the State Government to convey the specific recommendations of the State Government ^{for}/awarding the Medal to the applicant, and in view of the two censures awarded to him. The State Government withdrew their recommendations by letter dated 1.8.2002 and the Government of India deleted his name vide notification dated 26.1.2003 and corrigendum published in the Government of India Gazette dated 14.9.2002. According to the instructions of the Government Integrity/No Censure certificates are required for consideration for the Award. The initial recommendation in respect of the applicant was made by mistake without taking into account the punishment recorded against him. Though it can be argued that the State Government should have



been more vigilant in respect of such matters, once the punishment came to the notice of the Government it is undoubtedly a valid reason for withdrawing the recommendation and cannot be said to be arbitrary or unreasonable. More over there is no legal right for any officer to claim an award. An award is a recognition for outstanding meritorious service and only the most deserving among the officers qualifying for the award can be recommended for this purpose. It is certainly not a condition of service which can be claimed as a matter of right to be given with retrospective effect as claimed by the applicant. The punishments of 'censure' granted to him were expunged from his records only subsequently by the Government in the year 2003 and it is not like a promotion which one can claim as a consequence of the dropping of the punishment. The awards are considered for each year and on January, 2002 the punishments against him were subsisting and the State Government have rightly taken the view that he was not eligible to be recommended for the award of the highest order viz. The President's Police medal. We do not find that there is anything wrong or illegal in this decision of the State Government. It is also noticed from the records that even though the cause of action arose in January, 2002 the applicant approached this Tribunal only on 22.7.2004 only after the punishments were expunged. His representation to the State Government seems to have also been made after the Government orders dated 26.2.2003 expunging the punishment were issued. We also find from the records that the State Government has considered the representation and directed the Director General of Police to consider the applicant for future awards in the light of the expunction of the punishments.

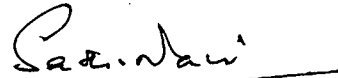
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10. In the above circumstances and in the light of the findings and legal position discussed above we do not find any merit in the prayer of the applicant and hence the O.A. is dismissed. No costs.

Dated the 14th October, 2005.



GEORGE PARACKEN
JUDICIAL MEMBER



SATHI NAIR
VICE CHAIRMAN

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