

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH: JAIPUR.

C.P.No.9/1997 in OA No.656/93

Date of order: 6-6-1997

S.S.Darbari son of Shri L.S.Darbar, resident of D-671, Malviya Nagar, Jaipur.

: Petitioner

Versus

1. Shri K. Padmanabhaiah, Secretary to the Government of India, Department of Personnel, New Delhi.
2. Shri Mitha Lal Mehta, Chief Secretary, Government of Rajasthan, Secretariat, Jaipur.
3. Shri Arun Kumar, Additional Chief Secretary (Home), Government of Rajasthan, Secretariat, Jaipur.
4. Shri Devendra Singh, Director General of Police, Rajasthan, Jaipur.
5. Shri Dharam Singh Meena, Secretary, Department of Personnel, Government of Rajasthan, Secretariat, Jaipur.

: Respondents

Mr. P.S.Asopa, counsel for the petitioner

Mr. U.D.Sharma, counsel for the respondents

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

PER HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)

In this contempt petition filed under Section 17 of the Administrative Tribunals Act, 1985 by Shri S.S.Darbari, the petitioner has prayed that the respondents may be suitably punished for wilful disobedience of the order of the Tribunal passed in OA No.656/93 on 4.3.1996.

2. O.A.No.656/93 was filed by Shri Shri S.S.Darbari, Deputy Inspector General of Police basically against denial of promotion to him to the post of Inspector General of Police (for short 'IGP'). The Tribunal had disposed of the said OA by order dated 4.3.1996. By the said order the Tribunal had quashed the proceedings of the Screening Committee held on 17.6.1993 and promotions given in pursuance

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thereto and had directed the respondents to convene a fresh DPC to consider all eligible officers including the petitioner. The respondents were granted two months time to comply with the directions of the Tribunal. Further extension of time to comply with the directions was granted subsequently. An SLP was also filed against the order of the Tribunal which was disposed of by the Hon'ble Supreme Court on 11.10.1996.

3. The petitioner has stated in the contempt petition that he submitted a representation to the respondents in October, 1996 alongwith a copy of the judgment of the Hon'ble Supreme Court, for compliance with the orders of the Tribunal, but there has been no response from the respondents so far. According to the petitioner, the respondents have either not convened the meeting of the Review Screening Committee and if it has been convened then the APAR of 1992-93 of the petitioner which was not to be considered as per the directions of the Tribunal which were upheld by the Hon'ble Supreme Court, might have been considered and made the basis for rejection of his case. Further, as per the observations of the Tribunal as upheld by the Hon'ble Supreme Court, respondent No.3 in the CP Shri Arun Kumar was disqualified from participating as a member of the Review Screening Committee. Therefore, if some decision has been taken rejecting the case of the petitioner for promotion to the post of IGP it is in gross violation of the order of the Tribunal for which the respondents are liable to be suitably punished.

4. The respondents in the reply have stated that the order of the Tribunal has been complied with by the respondents on

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13.11.1996 on which date a meeting of the Review Screening Committee was held to consider the cases of the petitioner as well as other officers whose cases had been considered by the earlier Screening Committee on 17.6.1993. The Review Screening Committee did not find the petitioner as suitable for promotion as IGP while it found other officers as suitable for promotion. As regards APAR of the petitioner for the year 1992-93 it had not been taken into consideration by the earlier screening committee which had met on 17.6.1993, on the ground that adverse remarks contained therein had not been conveyed to the petitioner. The adverse remarks therein had since been conveyed to the petitioner and his representation against these was considered by the Government. It was thereafter that the Review Screening Committee took the APAR of the year 1992-93 of the petitioner into consideration. As regards Shri Arun Kumar, the respondents have stated that there was nothing in the order of the Tribunal to show that he was disqualified for participating as a member of the Screening Committee. Therefore, according to them, his participation in the meeting of the Review Screening Committee was proper and justified. They have, therefore, prayed that the contempt petition may be dismissed and the notices issued may be discharged.

5. During his arguments, the learned counsel for the petitioner stated that in the rejoinder filed by the petitioner he had also raised the question of selection of Shri V.B.Singh by the Review Screening Committee although there were adverse observations with regard to him in the order of the Tribunal. He added that since the deliberations of the Review Screening Committee had to be in a just and

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proper manner, Shri Arun Kumar against whom some observations have been made by the Tribunal in relation to the petitioner, he should not have been allowed to participate in the meeting of the Review Screening Committee.

6. The learned counsel for the respondents in his oral arguments stated that the operative part of the directions of the Tribunal was in para 15 thereof. There was no direction therein that either his APAR for the year 1992-93 should be excluded from consideration by the Review Screening Committee or that Shri Arun Kumar should not participate in the deliberations of the Review Screening Committee. On the other hand, the directions was to convene a Review Screening Committee on the basis of ACRs/APRs upto the period when the vacancies had arisen. Thus, the APAR of 1992-93 had to be taken into consideration by the Review Screening Committee. He added that the APAR of 1992-93 have been considered only after the adverse remarks therein had been communicated to the petitioner and his representation received and considered. The allegations made by the petitioner are contained in paragraphs 5 & 6 thereof and the petitioner cannot be allowed to enlarge the scope of the CP during his oral arguments. There was no requirement of a formal communication to the petitioner that his name had been rejected by the Review Screening Committee or that others have been selected. He cited the following two judgments of the Hon'ble Supreme Court to urge that the scope of a contempt petition is extremely limited and the orders passed by the respondents on merits cannot be assailed in a contempt petition:

(1) J.S.Parihar Vs. Ganpat Duggar and others, 1996 SCC (L&S) 1422.

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(2) Vijay Singh, Secretary Home and another Vs. Mittan Lal Hindolia, 1997 SCC (L&S) 454.

He produced before us the original records relating to the proceedings of the Review Screening Committee for our perusal. A copy of the proceedings has been taken on record.

6. We heard the learned counsel for the parties and have perused the material on record.

7. The proceedings of the Review Screening Committee show that the committee consisting of three officers ; Shri M.L.Mehta, Chief Secretary to Government of Rajasthan, Shri Arun Kumar Additional Chief Secretary (Home) and Shri Devendra Singh, Director General of Police Rajasthan , Jaipur had considered the case of the petitioner and of certain other officers for promotion to the post of IGP. While it approved certain officers including Shri V.B.Singh as suitable for promotion, it had not found the petitioner as suitable for promotion on the ground that there were adverse remarks in his ACR/APAR for the year 1992-93. Therefore, the petitioner has not been granted promotion to the post of IGP. Basically the petitioner's grievances are two fold. One is that the ACR/APAR of 1992-93 was taken into consideration by the Review Screening Committee in spite of the observations of the Tribunal in its order dated 4.3.1996 that this ACR was vitiated on various counts. The other is that Shri Arun Kumar against whom there were adverse observations by the Tribunal in its order in relation to the petitioner should not have participated in the deliberations of the Review Screening Committee.

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8. As far as the ACR/APAR for the year 1992-93 in the case of the petitioner is concerned, it appears that this was not considered by the earlier screening committee which had met on 17.6.1993. However, there are observations in the order of the Tribunal with regard to the ACR/APAR of 1992-93 which suggest that this ACR was vitiated on various grounds and there were serious irregularities in recording it. It was not merely on the ground that the adverse comments therein had not been communicated to the petitioner that the Tribunal had held that this ACR/APAR should not have been taken into consideration by the Screening Committee. Thus, mere communication of the adverse remarks, receipt of representation thereon and consideration thereof would not cure the basic irregularities in the recording of the aforesaid ACR/APAR. The Hon'ble Supreme Court had also observed in its order dated 11.10.1996 while dismissing the SLP against the order of the Tribunal that no fault could be found with the view of the Tribunal that the Selection by the Screening Committee was vitiated on account of the Screening Committee having taken into account the ACR of the petitioner for the year 1992-93. Even if this ACR was not considered by the Screening Committee which met on 17.6.1993, this in any case should not have been taken into account by the Review Screening Committee in view of the observations of the Tribunal with regard to this ACR/APAR and the clear and categorical observations of the Hon'ble Supreme Court with regard to it.

9. In the circumstances of the present case, we, therefore, grant to the respondents one more opportunity to constitute another Review Screening Committee which shall consider the case of the petitioner and other officers afresh, whose cases were considered by the Review Screening

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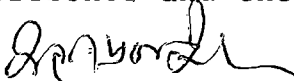
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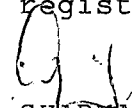
Committee earlier on 13.11.1996, after excluding consideration of the ACR/APAR of the petitioner for the year 1992-93 in view of the observations of the Tribunal and the Hon'ble Supreme Court. As regards participation of Shri Arun Kumar in the deliberations of the Review Screening Committee, there is no categorical direction of the Tribunal that he should not participate in any Review Screening Committee, perhaps also for the reason that the Tribunal could not anticipate that Shri Arun Kumar would participate in such a review meeting to be held in future. However, in view of the observations made by the Tribunal with regard to Shri Arun Kumar in relation to the petitioner, the respondents should seriously consider whether it would be appropriate to associate Shri Arun Kumar with the Review Screening Committee to be held now to consider the case of the petitioner ^{and others} afresh in the light of our directions given above. Needless to add, the general observations of the Tribunal and the expectations that the consideration should be in a fair and just manner shall be kept in view by the respondents while holding a review screening committee afresh and considering the case of the petitioner ^{and others}.

10. The respondents are granted a further two months time from the date of receipt of a copy of this order to comply with the directions of the Tribunal in a proper manner in accordance with the observations made above. The CP may be listed for admission on 26.8.1997.

11. A copy each of this order shall be sent to the petitioner and the respondents in the CP by registered post.


(RATAN PRAKASH)

MEMBER (JUDICIAL)


(O.P. SHARMA)

MEMBER (ADMN.)