

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA NO.2335/2014

Reserved on 29.04.2016
Pronounced on 03.05.2016

**HON'BLE MR SHEKHAR AGARWAL, MEMBER (A)
HON'BLE DR BRAHM AVTAR AGRAWAL, MEMBER (J)**

Pravesh Choubey
Aged 61 years
S/o late Shri K.N. Choubey
R/o G-64, Senior Citizen Home Complex
Pocket P-4, Kasna Road, Greater Noida,
District Gautam Buddha Nagar,
Uttar Pradesh – 201310.Applicant

(By Advocate: Mr. Prateek Chaturvedi)

VERSUS

1. Govt. of NCT of Delhi
(Through its Chief Secretary)
Delhi Secretariat,
I.P. Estate,
New Delhi-110002.
2. The Commissioner of Police,
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi – 110002.Respondents

(By Advocate: Mr. Vijay Pandita)

:ORDER:

DR BRAHM AVTAR AGRAWAL, MEMBER (J):

The applicant, who had joined the Delhi Police as a Sub-Inspector on 26.05.1975 and retired as an Assistant

Commissioner of Police on 31.10.2012, through the instant OA, prays that the third financial upgradation under the MACPS, granted to him w.e.f. 01.09.2010 (vide Annexure A-1), be instead directed to be granted w.e.f. 01.09.2008, i.e., the date of his eligibility. The reason for postponing the same by two years, as given in the order dated 26.08.2013 at Annexure A-1, is that the applicant had suffered "more than 5 censures".

2. The applicant in his OA admits award of two minor penalties of censure through orders dated 10.05.2005 and 17.11.2009 (the second one awarded in departmental proceedings initiated on 09.12.2004), but denies five orders of censure dated 17.09.2004, 25.09.2004, 22.08.2005, 08.09.2005 and 23.02.2006 as having not been communicated to him against proper acknowledgement.

3. The respondents in their reply admit in regard to the censures dated 17.09.2004, 23.09.2004 (the applicant's date is 25.09.2004) and 22.08.2005 that the receipts are not traceable, but as regards the censures dated 08.09.2005 and 23.02.2006 plead that the knowledge about them be imputed to the applicant as he had filed appeals against them, which were rejected. It has been further pleaded by the respondents that the applicant was in total awarded seven censures during the preceding five years of his eligibility date.

4. We have heard the learned counsel for the parties, perused the pleadings and given our thoughtful consideration to the matter.

5. Communication of an order brings to the person concerned the knowledge about the same. It seems to be a tenuous plea that despite knowledge one should be given the benefit of the presumption that arises in the absence of the receipt of the communication and the effect of the order be discounted. Thus, the censures dated 10.05.2005, 08.09.2005, 23.02.2006 and 17.11.2009 would have their effect.

6. Grant of benefit under the MACPS is subject to rules governing normal promotion where the employee concerned has suffered penalty. The Circular dated 29.12.2008 brought on record by the respondents reads, *inter alia*, as under:

"All punishments awarded during the period of 10 years preceding the year of DPC would also be taken into consideration. If an officer on assessment of record of punishment get more than 10 (ten) adverse points, he shall not be empanelled in that particular year. For calculating 10 adverse points, each major punishment with corruption/moral turpitude would carry 6 points, other major punishments would carry 4 points and each censure would carry 2 points. A censure awarded consequent upon conducting DE proceedings for the award of a major punishment in which charges have been found proved would carry 4 points."

7. The censures dated 10.05.2005, 08.09.2005 and 23.02.2006 would carry two points each and the one dated 17.11.2009 would carry four points. Thus, the total adverse points were ten. Therefore, the decision of the Screening

Committee, in the instant case, in postponing the benefit of third financial upgradation under the MACPS cannot be faulted.

8. In the light of the above, the OA deserves to fail. The same is hereby dismissed. No costs.

(Dr. B.A. Agrawal)
Member (J)

(Shekhar Agarwal)
Member (A)

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