

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 15.02.2012

+ **WP(C) 903/2012**

RAM SINGH

... Petitioner

versus

GOVT. OF NCT OF DELHI & ORS.

... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr S.C. Sagar

For the Respondent : Ms Purna Shah Deo, for Ms Anjana Gosain

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE V.K. JAIN

BADAR DURREZ AHMED, J (ORAL)

1. The petitioner is aggrieved inasmuch as he has not been considered for the post of Sub-Inspector. The petitioner was working as an Assistant Sub-Inspector in the security unit of the President's cell. The only point which arose for consideration before the Tribunal was whether there has been a wrong calculation of the adverse points by which the petitioner was to be assessed. According to the petitioner 12 adverse points have been wrongly attributed to him and it is because of this reason that he has been assessed 'unfit' and not considered for the promotion to the post of Sub-Inspector.

2. The Central Administrative Tribunal, Principal Bench, New Delhi rejected the plea of the petitioner in OA No. 3226/2011 by virtue of the impugned order dated 15.09.2011.

3. It is an admitted position that the petitioner's case is governed by Standing Order No. 378/2009 which deals with the subject of "Guiding Principles on Granting Promotions". Paragraph 4 of the said standing order is relevant and the same reads as under:-

“ 4. Besides the disciplinary proceedings resulting in award of major/minor punishments on grounds of moral turpitude corruption and other reasons and indicated in para (2) and (3) above, the punishment record of the officer including such punishments as mentioned in para (2) and (3) above during the preceding 10 years in that particular rank shall be taken into account to assess the overall performance of a candidate (with particular reference to the gravity and continuity of punishments till date). Award of major/minor punishments on their own, as detailed in para (2) and (3) above, debar a candidate from empanelment for specified period. In addition to the disability caused by specific acts of punishment, the cumulative punishment record of a candidate is also a relevant factor for assessing the suitability of a candidate for a higher post. 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 gets 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.”

(underlining added)

4. On a plain reading of the said paragraph 4 it is apparent that all the punishments awarded during the period of 10 years preceding the year of

the DPC would be taken into consideration. It is also apparent that if an officer on assessment of the record of punishment gets more than 10 (ten) adverse points, he shall not be empanelled in that particular year. In this backdrop the petitioner has not been empanelled and considered for promotion. This is so because, according to the respondent, the petitioner had 12 adverse points which, being in excess of the maximum of 10 adverse points, disentitled him for consideration for promotion.

5. Paragraph 4 of the said Standing Order also makes it clear as to how the adverse points are to be calculated. Each major punishment involving corruption/moral turpitude is to carry 6 points. Other major punishments carry 4 points and each censure is to carry 2 points. What is more important is that a censure awarded consequent upon conducting a departmental enquiry proceedings for the award of a major punishment in which the charges have been found proved are to carry 4 points.

6. Insofar as the petitioner is concerned, it is an admitted position that the petitioner received 2 censures on 01.07.2003 and 29.07.2005. Thereby he earned 4 adverse points. Thereafter, major punishment of forfeiture of two years of approved service temporarily was awarded to him by an order dated 05.10.2007. In respect of the same he would get 4 adverse points. As regards the censure imposed upon him by the appellate authority in modification of the major penalty after conducting another departmental enquiry, he received 4 adverse points. The learned counsel for the petitioner submitted before us that in the case of such a censure he should

get only 2 points but we find that paragraph 4 of the said Standing Order makes it clear that censure imposed after conduct of a departmental enquiry for award of a major punishment in which the charges have been found proved would carry 4 adverse points and not 2 as urged by the learned counsel for the petitioner. Looked at in the light of the paragraph 4 of the Standing Order there can be no manner of doubt that the petitioner would get 12 adverse points and, therefore, he could not have been considered for promotion. The Tribunal's finding in this regard cannot be faulted.

7. The learned counsel for the petitioner also drew our attention to paragraph 5 of the said Standing Order which reads as under:-

“5. Officers who have been awarded a censure during the last 6 months and not covered by any of above clauses on minor punishment, can be allowed to be brought on the promotion list. However, the effect of censure debarring the official for promotion for six months from the date of award shall continue.”

In the backdrop of the said paragraph 5, the learned counsel for the petitioner submitted that the petitioner had not been awarded censure during the six months preceding the DPC and therefore he ought to be brought within the promotion list. But, the learned counsel for the petitioner forgot that paragraph 5 also carries the words '*and not covered by any of above clauses on minor punishment*'. The above clauses include clause 4 which we have already referred to above. Therefore, the contention of the learned counsel for the petitioner is untenable.

8. Finally, the learned counsel for the petitioner submitted that Standing Order No. 378/2009 was brought into force on 25.07.2009 whereas the penalty had already been awarded to the petitioner and, therefore, the standing order ought not to come in the way of the petitioner. This submission of the learned counsel for the petitioner is untenable in view of the fact that the DPC was convened in the year 2011 when the standing order was already in force.

9. For all these reasons, there is no merit in the writ petition the same is dismissed. The parties shall bear their respective costs.

BADAR DURREZ AHMED, J

V.K. JAIN, J

FEBRUARY 15, 2012
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