

(1978) 11 CAL CK 0024

Calcutta High Court

Case No: C.R. No. 2595 (W) of 1977

Himangsu Sekhar Jha

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision: Nov. 30, 1978

Citation: 83 CWN 246

Hon'ble Judges: S.K. Datta, J

Bench: Single Bench

Advocate: Abhijit Kumar Banerjee and Pulak Ranjan Mandal, for the Appellant; Amaresh Chandra Chakrabarty, for the Respondent

Judgement

S.K. Datta, J.

This Rule is directed against two confidential letters dated the 3rd February, 1976 and the 25th June, 1976 issued by the Deputy Inspector General of Police, Head Quarters, West Bengal to the Superintendent of Police, Hooghly. These two letters contain a direction that the adverse remarks recorded in the annual confidential reports of the petitioner quoted in the said letters should be communicated to him. The first letter contains the annual confidential report for the years 1972-73 and 1973-74 while the other contains the annual confidential report for the year 1974-75. The first report is as follows :--

Continued as C. I. Sadar and left this district on transfer in the first week of April, 1973. His work was not as satisfactory as was in the previous year. Not very prompt in his reports was arrogant at times.

An outwardly smart but lazy officer, who had no grip over the police administration of his Circle. He was found dilatory in submission of his personal Diaries and in extracting case diaries from his subordinate officer.

The second one is as follows :--

His tall features create an illusion of impressive personality. He lacked control over his subordinates because he did not exercise proper supervision over their work and had no contribution for curbing the activities of the extremists and veteran criminals in his circle.

There is a direction in both the letters that the remarks should be communicated to the officer concerned, that is, the petitioner.

The Police Regulations Bengal 1943, Clause 79 provides that on the 1st February each year there shall be submitted to the Inspector General through appropriate channels copies of all remarks made under regulation 76 in the confidential report book of each Inspector. Regulation 76 clause (a) provides that the Superintendent shall maintain, bound in a book of convenient size, confidential reports for each Inspector, Sergeant, Sub-Inspector and officiating Sub Inspector in B. P. Form No. 2. Regulation 81 provides as follows :--

81. In order that an officer may be in a position to rectify his shortcomings, unfavourable remarks recorded in his confidential reports or character rolls or on other occasions should be communicated to him.....

2. It is the petitioner's case that these confidential reports were communicated to him long after as the dates indicated above would indicate and he was not in a position to take any steps in respect of the adverse remarks which, according to him, had no basis. These adverse remarks against him had serious effect in his career inasmuch as he was not selected for the confirmation as a Circle Inspector while officers junior to him were given promotion in preference to him. In the affidavit-in-opposition affirmed by the Superintendent of Police, Hooghly, Chinsurah on 29th August, 1978 it has been stated that the general practice is that every year the Inspector General of Police receives the annual confidential remarks of the Inspector from the officer concerned. After their perusal by him or by the Additional Inspector General of Police orders are passed for issue of the adverse remarks to the Inspector concerned. It is further stated ".....In the early seventies due to outbreak of Naxalite violence the normal work in the police Directorate was disrupted considerably and therefore the adverse remarks in the C. C. Roll of Inspectors could not be issued to the concerned officers in time. Eventually, in 1976 a decision was taken that the adverse remarks in the C. C. Roll of all Inspectors from 72-73 onwards would be issued to the officers without any further delay. In pursuance of this decision, the adverse comments in the A. C. R. of Inspector Shri Himangshu Sekhar Jha for the year. 1972-73 and 1973-74 were issued to him in March, 1976 and those in the A.C.R. of 1974-75 in May 1976".

3. The purpose of communicating the annual confidential report to the officer concerned appears to be to apprise the said officer to rectify himself in the light of such remarks for future action by the authorities whenever necessary in respect of such officer. In case the lapses are rectified it is obvious that the incumbent will be

considered for better position or promotion as may be warranted by the Rules. It is therefore essentially necessary that the adverse remarks should be communicated to the officer concerned as early as possible. If this is not done, the officer does not get any opportunity to know the defects he may suffer from or to take any steps for rectifying the same, if possible. The delay caused in sending the reports has obviously caused prejudice to the petitioner in that his case in view of those adverse remarks has not deserved any consideration by the authorities for promotion or posting or otherwise. It is therefore in the fitness of things that these adverse remarks should no longer weigh with the authorities in considering the prospective career of the incumbent. In addition the authorities by now have further annual confidential reports of the petitioner to consider his case for suitable fixation and promotion.

4. In the view I have taken these adverse remarks contained in annexures "B" and "D" to the petition should therefore be expunged from the confidential character roll of the petitioner and will not be taken into consideration by the authorities in future.

The Rule accordingly is made absolute. Let appropriate writ issue accordingly.

I may add that the petitioner, according to him, has suffered already, but, it is not possible to put the clock back except to expunge the remarks as indicated above for purposes of future consideration.

There will be no order as to costs.