

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(4)

O.A. NO.2700/2002

This the 28th day of April, 2003

HON'BLE SHRI JUSTICE V.S.AGGARWAL, CHAIRMAN

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Bani Singh, SI-D 407
S/O Late Pt. Prabhati Ram,
R/O RZ 23A/1, Indira Park,
Palam Colony,
New Delhi-110045.

... Applicant

(By Shri Arun Bhardwaj, Advocate)

-versus-

1. Commissioner of Police,
MSO Building, Police Hqrs.,
I.P.Estate, New Delhi.
2. Jt. Commissioner of Police
Headquarters, PHQ,
I.P.Estate, New Delhi.
3. Deputy Commissioner of Police
HQ (EEstt.),
Police Headquarters,
I.P.Estate, New Delhi.

... Respondents

(By Shri Ajesh Luthra, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant has been working as SI (Min.) in Delhi Police w.e.f. 26.9.1988. He was considered for admission of his name to the promotion list 'F' (Ministerial) by the DPC held on 17.1.2002. While the department issued on 21.1.2002 list of SIs (Min.) who had been recommended by the DPC for inclusion in the list 'F', applicant's name was kept in sealed cover due to pendency of a departmental enquiry. Same day, respondents issued promotion orders in respect of 11 persons from the list 'F'. Applicant was exonerated in



the said departmental enquiry. The sealed cover was opened. Vide impugned Annexure A-1 dated 8.5.2002 it has been stated that the DPC had graded applicant as 'unfit' for admission to promotion list 'F' (Min.) as he had failed to achieve the requisite grading of ACRs required for empanelment to the said list.

2. The learned counsel of applicant Shri Arun Bhardwaj maintained that applicant has never been conveyed any adverse ACR and that while five of relevant ACRs of applicant were graded in category 'B', one was graded in category 'A'. Relying on order dated 3.8.2001 in OA No.120/2001 : **SI Jagmal Singh v Commissioner of Police & Ors.**, the learned counsel contended that category 'B' in ACR is treated as 'very good' and category 'A' as 'outstanding/excellent'. It was held in the said case that the overall categorisation 'B' stands for 'very good'. He also drew our attention to Government of NCT of Delhi, Home Department memorandum dated 9.7.1996 whereby respondents have been treating category 'B' reports as 'very good'. The learned counsel stated that applicant having achieved the benchmark of 'very good' grading, respondents have arbitrarily held him 'unfit' for inclusion of his name in the list 'F'.

3. On the other hand, the learned counsel of respondents Shri Ajesh Luthra stated that the DPC scrutinised the service record and ACRs for the preceding six years in respect of SIs including applicant for making the selection in question, as required under rules. He referred to consolidated instructions issued

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by the DOP&T relating to promotions. He particularly relied on guideline 6.1.3 and 6.2.1(e) for DPCs. These are reproduced as below :

"6.1.3. While merit has to be recognized and rewarded, advancement in an officer's career should not be regarded as a matter of course, but should be earned by dint of hard work, good conduct and result-oriented performance as reflected in the annual confidential reports and based on strict and rigorous selection process."

"6.2.1 ...

- (e) The DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs but should make its own assessment on the basis of the entries in the CRs, because it has been noticed that sometimes the overall grading in a CR may be inconsistent with the grading under various parameters or attributes."

The learned counsel maintained that the DPC is to keep in view not only the overall grading accorded by the reporting/reviewing authorities but have to take into consideration the nature of remarks recorded by these authorities on different aspects of the work of the government official and has to make its own assessment on the basis of such entries in the ACRs.

4. We have gone through the ACR records of applicant pertaining to years 1995-96 up to 2000-2001 which were relevant for consideration by DPC. We find that whereas applicant was rated as category 'B' for four years, he was rated as 'satisfactory/average' for the rest of two years. We find that the DPC has changed applicant's category from 'B' to 'average' for two relevant years. As such, the DPC held that applicant did

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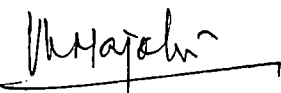
not have more than 50% 'very good' ACRs. The DPC records do not reveal any reasons for changing the overall category of two ACRs.

5. It is undisputed that for placement in the promotion list 'F' (Min.) a candidate must have more than 50% 'very good' and above reports during the preceding six years. If the overall grading accorded by the reporting/reviewing authorities is taken into consideration, applicant has attained the above benchmark. However, since the DPC changed the overall grading of two ACRs from category 'B' (very good) to category 'average', applicant is stated to have not attained the required level. We are not convinced by the arguments of the learned counsel of respondents. While we have no quarrel with the powers of the DPC to make its own assessment of the ACRs, the downgrading of overall grading of ACRs by the DPC must be supported by reasons to be recorded. Whereas the DPC has downgraded applicant's two ACRs, no reasons therefor have been recorded by the DPC. DPC cannot be allowed to function in an arbitrary and capricious manner. As such, in our view, applicant has achieved four 'very good' gradings out of a total of six during the relevant period which clearly meets the norm set up by respondents for empanelment in the promotion list 'F'.


6. In the above view of the matter, the application succeeds and is accordingly allowed. Annexure A-1 dated 8.5.2002 is quashed and set aside. Respondents are directed to consider applicant as 'fit'

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for admission to promotion list "F" (Ministerial) with all consequential benefits. These instructions shall be complied with by respondents within a period of three months from the date of receipt of a copy of this order. No costs.


(V. K. Majotra)
Member (A)

/as/


(V. S. Aggarwal)
Chairman