

8

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1186/2002

New Delhi, this the 31st day of December, 2002

HON'BLE MR. SHANKER RAJU, MEMBER (J)
HON'BLE MR. C.S. CHADHA, MEMBER (A)

Bishamber Dayal
S/o Shri Phul Singh,
R/o Vill & PO Nilaheri,
Distt. Jhajhar, Haryana

... Applicant

(By Advocate : Shri Ashwani Bhardwaj, proxy counsel
for Shri Shyam Babu)

Versus

1. The Govt. of NCT of Delhi,
Through its Chief Secretary,
Delhi Secretariat, Players' Building,
I.P. Estate, New Delhi

2. Commissioner of Police,
Delhi,
Police Headquarters,
I.T.O.
New Delhi

3. Joint Commissioner of Police
(Headquarter) Delhi
Police Headquarters, I.T.O.
New Delhi

.... Respondents

(By Advocate : Shri Vimal Rathi, proxy counsel for
Mrs. P.K. Gupta)

O R D E R (ORAL)

By Hon'ble Shri C.S. Chadha, Member (A):

This OA has been filed by the applicant because he is aggrieved by the denial of promotion to the rank of SI (Executive) by the Delhi Administration, although his juniors have been promoted. The brief facts of the case are that the applicant was involved in a corruption case and tried by a Court of Law. The Sessions Court of Delhi

Shri C.S. Chadha

9

(2)

convicted the applicant in 1981. The applicant then preferred an appeal to the Delhi High Court and the High Court acquitted the applicant honourably on 20.09.2000. While his appeal was pending, on the basis of the conviction in the Sessions Court, the applicant was dismissed from service in 1985. Since the High Court acquitted the applicant honourably, he ~~has~~ made a representation on 24.11.2000 for his reinstatement and the grant of consequential benefits. On 05.03.2001 the applicant was reinstated into service with all consequential benefits and the applicant joined his duties in pursuance of the order on 05.03.2001. On 18.06.2001 the applicant was promoted as ASI (Executive). However, the period from 23.10.1980 to July 2001 was treated as proforma promotion. As a result of his proforma promotion, the applicant was kept in the list E-1 (Executive) for promotion to the post of SI (Executive) in the Delhi Police w.e.f. 05.01.1987, placing his name at serial No. 204A. However, he was not promoted to that rank on the short ground that he did not attend the Upper School Course, which is the basic requirement for being promoted as SI (Executive). Aggrieved by this order he has filed this OA.

2. The main ground of the applicant is that it is for no fault of his that from 1985 till 05.03.2001 the applicant neither worked as ASI (Executive) nor was he sent on the required course, which is a necessary pre-condition for promotion to the rank of SI (Executive). In their reply, the respondents have merely averred that the relevant rule, i.e. rule 16(i) of the



Delhi Police (Promotion & Confirmation) Rules, 1980, the promotion from ASI to SI shall be only on successfully completing the Upper School Course and such persons shall be promoted as and when vacancies occur. According to the respondents, he was not sent for the training course as he was about to retire. In fact, the applicant retired on superannuation w.e.f. 30.11.2001. The learned counsel for the respondents argued that the promotion of the applicant cannot be made in violation of the rules which require passing of the course.

3. We find it hard to agree with the learned counsel for the respondents that the applicant cannot be promoted because he did not pass the Upper School Course because the applicant was denied the opportunity to go for the course and pass the necessary examination for no fault of his. We asked a pointed question to the learned counsel for the respondents as to the benefits that the applicant got after he was acquitted by the Hon'ble High Court with all consequential benefits. ~~The~~ Consequential benefits do not only mean salary for the concerned period during which the applicant remained dismissed but also the benefits of seniority and promotion in his due turn. It is without doubt that had the applicant not been dismissed due to the conviction, which was considered to be wrongful by the Hon'ble High Court, he would have continued in service and, therefore, received his opportunity to attend the Upper School Course in accordance with ~~the~~ ^{his} seniority, and duly promoted. Now that the applicant has retired, it would be unfair to ask

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11

(4)

him to pass that course. In fact, his reinstatement was very shortly before his ultimate superannuation and at that late age he could not be expected to pass a course being kept out of duty for nearly 15 years. We find no justification in refusing him this benefit, which is definitely a part of consequential benefits that he should have received.

4. The applicant has also claimed, as a relief, the salary and allowances as due to him for the period from 23.10.1980 to 04.01.1987, i.e. the period for which he had been granted proforma promotion as ASI (Executive). The learned counsel for the respondents stated at the bar that all his arrears of pay and allowances have been paid but could not show any order of payment. Be that as it may, if the arrears of pay and allowances of the post of ASI (Executive) from 23.10.1980 upto 04.01.1987 have not been paid already, they shall now be paid. The meaning of proforma promotion does not mean that he can be denied the salary and allowances of that period because it is for no fault of his that he was kept away from duty as ASI.

5. In view of the above discussions, the OA is allowed. The respondents are directed to promote the applicant to the rank of SI (Executive), in relaxation of the condition of the passing of the Upper School Course, from the date his immediate junior was so promoted. He shall be, therefore, entitled to all consequential benefits of pay and allowances as SI (Executive) from such date. He should also be paid the pay and allowances

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12
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of the post of ASI (Executive) from 23.10.1980 to 04.01.1987, if not already paid. This order shall be fully complied with within a period of three months from the date a copy of this order is filed before the respondents. No costs.

C.S. Chadha
(C.S. CHADHA)
Member (A)

S. Raju
(SHANKER RAJU)
Member (J)

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