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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO. 835/2002

New Delhi this the 16<sup>th</sup> day of January, 2003.

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

HON'BLE SHRI V. SRIKANTAN, MEMBER (A)

H.C. Giriraj Singh  
S/o Shri Gajraj Singh  
R/o H.No.3/34, Gali No.2  
Khajuri Khas Colony  
Delhi-94.

..... Applicant

(By Shri Sachin Chauhan, Advocate)

-versus-

1. Commissioner of Police  
I.T.O., P.H.Q., I.P.Estate  
M.S.O. Building  
New Delhi.
2. Deputy Commissioner of Police  
Police Control Room, Delhi  
I.T.O. P.H.Q. I.P.Estate  
M.S.O. Building  
New Delhi.
3. Joint Commissioner of Police  
I.T.O., P.H.Q. I.P.Estate  
M.S.O. Building  
New Delhi.

... Respondents

(By Shri Ajay Gupta, Advocate )

O R D E R

Justice V.S. Aggarwal:-

Head Constable Giriraj Singh by virtue of the present application seeks quashing of the order dated 13.11.2001 by virtue of which he had been denied promotion in D-I (Executive).

2. Some of the relevant facts are that the applicant had been appointed as a Constable



(Executive) in Delhi Police in 1975. He was promoted as Head Constable in 1987. On 1.5.2001, the conduct of the applicant had been censured on the allegation of carrying out checking of vehicle of the Assistant Commissioner of Police for ulterior motive. The respondents are alleged to have issued a promotion list D-I(Executive) on 13.11.2001 wherein the name of the applicant had not been admitted in the list and he was not promoted on the ground of indifferent service record. The applicant had preferred a representation/appeal which had been dismissed. The said order is being assailed as referred to above.

3. In the reply filed, the respondents contested the application contending that as per Rule 5 of the Delhi Police (Promotion & Confirmation) Rules, 1980 read with Government of India, Ministry of Personnel and Training Office Memorandum dated 10.4.1989, promotion from one rank to another and from lower grade to higher grade in the same rank has to be made by selection. The efficiency and honesty are the main factors governing the selection. The selections are made on the recommendations of the Departmental Promotion Committee. According to the service particulars of the applicant, he had been censured. The name of the applicant was considered by the



Departmental Promotion Committee and he was declared not fit for promotion in that meeting because he had been censured on 13.7.1996 for not taking interest in the capsule course and on 1.5.2001 for checking the vehicles unauthorizedly.

The applicant was incharge of the PCR Van and he would not have allowed his staff for unauthorized checking of vehicles. The vehicle of the Assistant Commissioner of Police was stopped with ulterior motives. As per the Departmental Promotion Committee guide-lines, the officers who had been awarded minor punishment in the preceding 5 years on charges of corruption, moral turpitude and gross dereliction of duty were not recommended. The applicant was censured for mala fide intention/moral turpitude and indifferent service record and, therefore, he had not been recommended for promotion.

4. The learned counsel for the applicant in this regard alleged vehemently that the applicant had simply been censured and considering the guide-lines framed by the respondents themselves, after six months of the censure order that is passed with no other punishment will debar the applicant from promotion. In other words, after the period of six months, the applicant's name could well have been considered for promotion which has not been done.

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5. To appreciate the said controversy, we take liberty in reproducing the relevant rules on the subject. Rule 5 of the Delhi Police (Promotion and Confirmation) Rules, 1980 provides for general principles of promotion. Sub-rule (i) thereto reads as under:-

"5. General principles of promotion-  
(i) "Promotions from one rank to another and from lower grade to the higher grade in the same rank shall be made by selection tempered by seniority. Efficiency and honesty shall be the main factors governing selection. Zone of consideration will be determined in accordance with the rules/instructions issued by the Government from time to time."

On basis of the same, certain guide-lines have been framed for purposes of the Departmental Promotion Committee meetings. The same are as under:-

- "i) officers having 3 Good or above reports and without and below average or adverse report may be empanelled where the minimum required qualifying service in the lower rank has been prescribed as five years or less than 5 years. However, in cases where the required qualifying service in the lower rank is prescribed more than 5 years, the D.P.C. should see the records with particulars reference to CRs for the years equal to the required qualifying service and the officer having more than 50% Good or above reports and without any "below average" or "adverse" reports during the years for which the CRs have been taken into consideration for empanelment of the officers.
- ii) The service record of the officers during preceding 10 years in the particular rank was taken into account with particular reference to the

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gravity and continuity of punishments till date. Punishments on counts of corruption and moral turpitude were given added weight in excluding a person from the list.

- iii) Officers who were awarded any major/minor punishment in the preceding 5 years on charges of corruption, moral turpitude and gross dereliction of duty in protect Govt. property, or major punishment within 2 years on charges of administrative lapses from the date of consideration were not recommended.
- iv) Officers whose names were borne on secret list of doubtful integrity were not considered fit as per standing order No.265.
- v) Officers who were awarded censure during the last 6 months with no other punishment were recommended for promotion list. However, the effect of censure by debarring the official from promotion by 6 months from the date of award shall continue.
- vi) Result of officers who were under suspension facing DE or involved in Crl.Case were kept in sealed covers."

Reliance is being placed on the fact that the officers who are awarded censure would be debarred only for a period of six months. In other words, it is on basis of para (v) of the administrative guide-lines referred to above.

6. While applying the said instructions necessarily one cannot lose sight of Rule 5 of the Rules referred to above. It clearly provides that promotion from one rank to another has to be made by selection tempered by seniority. Most important is that efficiency and honesty have to be the main factors governing the selection. If there is

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dereliction of duty in this regard, necessarily rigour of the Rules will come into play. Instructions would be not the masters but would act as subservient. It is in this backdrop that the above instructions will have to be appreciated. Herein therefore, if there is anything to impinge the morality, the same cannot be lost sight of. As is apparent from the para (iii) of the instructions, even when a person is awarded minor punishment in the preceding 5 years on grounds of dereliction of duty and moral turpitude, he cannot be so considered.

7. The charge for which the the applicant had been found guilty in the departmental proceedings indicate that the applicant with ulterior motive is stated to have checked the vehicle. Once it has been held that he had checked the vehicle with ulterior motive, it would be obvious that a minor punishment was inflicted for dereliction of duty which involved moral turpitude. Paragraph (iii) of the instructions referred to above would necessarily immediately have a role to play and, therefore, the abovesaid argument in this backdrop so much thought of must be rejected.

8. This Tribunal in the case of Head Constable Budh Ram v. NCT of Delhi and Ors. in OA No.285/2002 decided on 10.5.2002 was dealing with a

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similar situation. It was held:-


"11. As the minor penalty of censure has been awarded on moral turpitude the same is a bar for promotion as per clause (iii) of the DPC guidelines, the applicant has been rightly held unfit for promotion by the DPC. We neither find any illegality or irregularity of procedure nor malafide on the part of the DPC. The decision arrived at by the respondents denying the applicant promotion cannot be found fault with and is sustainable."

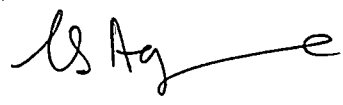
A similar view was taken by another Bench of this Tribunal in the case of Sukhbir Singh v. Commissioner of Police & Ors. in OA No.610/1996 decided on 1.2.2001. We find ourselves in agreement with the same.

9. Keeping in view the aforesaid, it must be held that the plea so taken is devoid of any merit.

10. No other argument was advanced.

11. For these reasons, the application being without merit fails and is accordingly dismissed. No costs.

  
(V.Srikantan)  
Member (A)

  
(V.S.Aggarwal)  
Chairman

/sns/