

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2656/2002

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Tuesday, this the 8th day of April, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

Ved Pal No.117/NE
Head Constable of Delhi Police
(PIS No.28760861)
r/o D-620, Gali No.1
Ashok Nagar, Delhi-93
Presently posted in
PCR (East Zone)
PS Vivek Vihar, Delhi

..Applicant

(By Advocate: None present)

Versus

1. Commissioner of Police
Police Head Quarters
IP Estate, New Delhi
2. Jt. Commissioner of Police
(Establishment) PHQ
IP Estate, New Delhi
3. DCP (Vigilance)
Police Head Quarters
IP Estate, New Delhi

..Respondents

(By Advocate: Shri K.C.Nayak for Shri R.K.Dhillon)

O R D E R (ORAL)

Shri Govindan S. Tampi:-

None appeared on behalf of the applicant even on the second call. Accordingly, we proceed to dispose of the OA in terms of Rule 15 of C.A.T. (Procedure) Rules, 1987 after hearing Shri K.C. Nayak, learned proxy counsel for the respondents.

2. Shri Ved Pal No.117/NE, Head Constable of Delhi Police is aggrieved that he has not been placed in list 'D' and promoted to the rank of ASI w.e.f. 13.11.2001 with all consequential benefits. The applicant, with more than five years of service, had become eligible for

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consideration for admission to list 'D' for promotion to the rank of ASI in terms of Delhi Police (Promotion & Confirmation) Rules, 1980 and the circular/order dated 3.12.1998. He was first considered for promotion on 12.11.2001 but was assessed as 'unfit' by the DPC on account of punishment of censure impugned on him on 24.11.2000. However, the appellate authority on 23.1.2002 had set aside the punishment of censure whereafter on 29.1.2002, the applicant submitted a representation against his non-inclusion in the promotion list. The review DPC, which met, held the applicant 'unfit' for promotion on the ground of unspecified indifferent service record. On his filing OA-1787/2002, the respondents produced the relevant documents which showed that the applicant could not be considered as his name was included in the agreed list of persons of doubtful integrity upto 30.1.2002. As his case had been placed on the agreed list only on the basis of penalty of censure awarded to him, which was quashed by the appellate authority on 23.1.2002, his name should have been deleted from the said list from the very beginning. The applicant also states that in terms of SO No.265/96 only those officers whose names appeared on the secret list could not be considered for promotion but the said prohibition did not apply to persons whose names were in agreed list. This being the case, his case should have been considered favourably and he should have granted promotion, pleads the applicant.

3. On behalf of the respondents, Shri K.C.Nayak, learned proxy counsel points out that the applicant could

not have been considered for promotion to admission list 'D' on account of the fact that his name was in the agreed list, which had arisen on account of his being censured. Both DPCs (first and review) held him to be unfit for promotion and the same cannot be interfered with.

4. We have carefully considered the matter and we find that the applicant has a case. Applicant's ~~enlistment~~ ^{placement} in list 'D' for promotion to post of ASI was denied only on account of his having been censured and thereupon being placed in the agreed list. Once the appellate authority vide order dated 23.1.2002 had set aside the punishment of censure, the basis for placement of the individual's name is knocked out and his name is deemed to have been deleted from the list from the induction. It follows, therefore, that the applicant was not at all in the agreed list and, therefore, he could not have been denied promotion, if otherwise fit. As pointed out in SO No.265/96, the applicant was not placed under secret list and, therefore, the prohibition for promotion did not apply in his case.

5. In the above circumstances, OA succeeds and is accordingly allowed. The respondents are directed to consider the applicant's case once again for placement in list 'D' and promotion, keeping in mind the fact that his name has already been deleted from the agreed list from the inception and nothing, therefore, came in his way. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order,

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and if found fit, he should be promoted from the day his immediate junior was promoted, with all consequential benefits, including arrears of pay and allowances.

S. Raju
(Shanker Raju)
Member (J)

/sunil/

(Govindan S. Tampi)
Member (A)