

2

22


7.1.2003
OA 3358/2002

Present: Shri Ravi Kant for Shri Arun Bhardwaj, counsel
for applicant

Shri Ajesh Luthra, counsel for respondents

In terms of the directions given by this Tribunal
on 24.12.2002, Shri Ajesh Luthra, learned counsel for
respondents has produced the original DPC records for our
perusal which are kept on record.

After seeing the DPC records, we do not find any
merits in this case which is accordingly dismissed.
Reasons will follow.


(Shanker Raju)
Member (J)


(Govindan S. Tampi)
Member (A)

/sunil/

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.3358/2002

This the 7th day of January, 2003.

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

ASI Sukhbir Singh S/O Ruhla Singh,
R/O C-41, Gali No.13,
Shashi Garden, Patparganj,
Delhi-110091.

... Applicant

(By Shri Arun Bhardwaj, Advocate)

-versus-

1. Commissioner of Police,
MSO Building, Police Headquarters,
I.P. Estate, New Delhi.
2. Addl. Commissioner of Police,
Estt., PHQ, New Delhi.
3. Joint Commissioner of Police,
PHQ, Delhi.
4. Dy. Commissioner of Police,
Security, Security Lines,
New Ashoka Hotel,
New Delhi.

... Respondents

(By Shri Ajesh Luthra, Advocate)

O R D E R (ORAL)^h

Hon'ble Shri Shanker Raju, Member (J) :

Applicant impugns respondents' order dated 19.8.2002 whereby his request for admission of his name in promotion list E-I(Exe.) w.e.f. 27.8.2000 for promotion to the post of Sub Inspector in Delhi Police has been rejected.

2. Applicant was promoted as ASI on 27.12.1988 and while posted in South District was ordered to be dealt with departmentally.

- 2 -

3. By an order dated 20.7.1998 a major penalty of withholding of increment for a period of six months temporarily was inflicted upon applicant. The name of applicant was also simultaneously brought on the list of officers of doubtful integrity but was removed therefrom on 27.8.2000.

4. Applicant represented to the respondents for his promotion which was rejected by an order dated 28.10.1999 as after evaluating his service record and ACRs for the preceding five years he was graded 'unfit', giving rise to the present OA.

5. By an order dated 24.12.2002 passed by the Vacation Bench notices have been issued to respondents with a direction to produce records of the DPC where the case of applicant was considered. Shri Ajesh Luthra, learned counsel for respondents, has brought the DPC record pertaining to the DPC held on 2.12.1998 as well as the review DPC held on 1.9.2000.

6. Shri Arun Bhardwaj, learned counsel for applicant, has contended that applicant has been discriminated against arbitrarily in violation of Articles 14 and 16 of the Constitution, as neither he had been conveyed any adverse ACRs nor his name stood in the list of officers having doubtful integrity, and rejecting his case for promotion in list E-I(Exe.) is without any reasons recorded by the authorities.

7. According to Shri Bhardwaj, the punishment of withholding of increment does not affect the consideration for promotion and the department has faulted in not considering and recommending the case of applicant even though the DPC recommended the name of his juniors.

8. Shri Luthra by referring to the record of the DPC contended that applicant had completed the probation period successfully as ASI. While placing the material before the DPC on 1.9.2000 his name existed on the secret list of officers of doubtful integrity w.e.f. 27.8.1997 and was graded 'unfit' due to his indifferent service record not only on the basis of doubtful integrity but also having a major punishment in his record and the ACRs. On removal of his name from the list of officers of doubtful integrity and this fact not having been put before the DPC, a review DPC had taken place w.e.f. 1.9.2000 and the case of applicant was duly considered but he was graded 'unfit' on the basis of overall record. This, according to respondents, is in consonance with the guidelines issued for holding DPCs and as a major penalty on the charges of moral turpitude has been inflicted upon applicant for preparing false reports of an investigation with ulterior motive to favour a builder, applicant has been graded 'unfit' on account of clause (3) of the criteria adopted which envisages that the officers who had been awarded major punishment in the preceding five years on charges of moral turpitude should not be empanelled.

- 4 -

9. We have carefully gone through the record of DPC produced by respondents and also taken into consideration the averments of applicant. Promotion cannot be claimed as a right and in order to be fit for promotion, one has to conform to the guidelines issued by the department to be followed by the DPC, as from a perusal of applicant's ACRs as well as having regard to a major punishment on the charges of moral turpitude within five years, the period which was considered by the DPC, we do not find any illegality or infirmity with the procedure adopted by the DPC. The review DPC reconsidered the case of applicant but having regard to the major punishment on charges of moral turpitude he was not found fit to be empanelled and was rightly graded 'unfit'. In the light of the decision of the Apex Court in **Nutan Arvind v. Union of India**, 1996 (2) SCC 488, the finding of the expert body and assessment on merit by duly constituted DPC shall not be interfered unless visited by mala fides or in derogation of the rules.

10. Having regard to the reasons recorded above, the OA is bereft of merit and is accordingly dismissed.

S. Rajm
(Shanker Raju)
Member (J)

/as/

Govindan S. Tampi)
Member (A)