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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.2511/2002

New Delhi, this the 27th day of August, 2003

HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. S.K. NAIK, MEMBER (A)

Head Constable Balwinder Singh No. 613/NW
S/o Shri Singhadha Singh,
R/o 53 G, Police Colony Model Town-II,
Delhi
(Presently working in Delhi Police)

..... Applicant
(By Advocate : Shri Sachin Chauhan)

Versus

Union of India : Through Its

1. Secretary,
Ministry of Home Affairs,
North Block, New Delhi
2. Joint Commissioner of Police,
Headquarters,
Police Headquarters, I.P. Estate,
M.S.O. Building, New Delhi
3. Addl. Dy. Commissioner of Police,
North West District,
P.S. Ashok Vihar,
Delhi.

..... Respondents
(By Advocate : Shri Rishi Prakash)

O R D E R (Oral)

BY HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN :

1. Applicant, Balwinder Singh, joined the Delhi Police as Constable on 9.5.1979. He was promoted as a Head Constable in 1987. His name was considered for promotion to the rank of Assistant Sub. Inspector. He was denied promotion due to indifferent service record. By virtue of the present application, he seeks a direction that his name should be placed in the list D-I from 12.11.2001 when his batch mates have been placed in the said list. The averments of the applicants are that he has not suffered

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any major penalty except that he was censured on 3.7.2001 and his appeal has since been dismissed. According to the applicant, denying the promotion to him is arbitrary and against the instructions. Hence the present application.

2. In the reply filed, the respondents have contested the OA. It has been pleaded that as per rule 5 of the Delhi Police (Promotion & Confirmation) Rules, 1980, promotion from one rank to another and lower grade to higher grade in the same rank has to be made by selection tempered by seniority. Efficiency and honesty shall be the main factors governing the selection. The Departmental Promotion Committee (DPC) enjoys full discretion to devise its own methods and procedure for objective assessment. As per the service particulars of the applicant, the matter was placed before the DPC. It met on 12.11.2001. The names of the persons were considered. The DPC prepared a list of persons to be admitted to List D-T. The name of the applicant was considered. He was declared unfit because of indifferent service record. He had been censured on 21.9.1994 for unauthorised checking of a Tanker and another censure on 3.7.2001 for passing on wrong information to Police Control Room and using rough/ vulgar language. Those persons who have suffered minor penalties of corruption, moral turpitude and gross dereliction of duty were not recommended. Hence the applicant was not found fit by the DPC.

3. The learned counsel for the applicant, during the course of submissions, contended that the claim of the applicant could not be ignored because, according to him,

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even if the applicant had been censured, he could not be debarred and this decision is contrary to the Circular issued by the Commissioner of Police dated 3.12.1996. The said Circular reads as under :

"The following principles shall be observed, in future, while holding Departmental Promotion Committee for admission of names to promotion lists:-

- i) Officers having 3 'Good or above' reports and without any 'below average or adverse' reports may be empanelled where the minimum required qualifying service in the lower rank has been prescribed as 5 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 DPC should see the record with particular 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 officer during preceding 10 years in that particular rank shall be taken into account with particular reference to the gravity and continuity of punishments till date. Punishments on counts of corruption and moral turpitude are to be viewed seriously.
- iii) Officers who have been awarded any major/ minor punishment in the preceding 5 years on charges of corruption, moral turpitude and gross dereliction of duty to protect government property or major punishment within 2 years on charges of administrative lapses, from the date of consideration may not be empanelled.
- iv) Officers whose names stand on Secret List shall not be considered fit as per S.O. No.265/96.
- v) Officers who have been awarded censures during the last 6 months with no other punishment can be allowed to be brought on promotion list. However, the effect of censure by debarring the official for promotion by six months from the date of award, shall continue.
- vi) Result of Officers, who are under suspension

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or facing DE or involved in Criminal cases
shall be kept in sealed covers."

4. On the contrary, the respondents pointed that the applicant had suffered two censures, one in the year 1994 and the second on 3.7.2001, which is admitted by the applicant. The DPC held the meeting within six months of the second censure inflicted upon the applicant and that it was for the DPC to consider the totality of the facts and the conduct of the person.

5. The nature of dereliction of duty can be seen from the show cause notice that was served upon the applicant and based on which the censure was imposed. Dereliction of duty reads -

"On 13.4.2001 at about 9.40 hrs. HC Balwinder Singh, No. 613/NW while detailed at Picket Nehru Vihar P.S. Mukherjee Nagar passed an information to P.C.R. at No.100 that his Wireless Set had been stolen which was taken by SI Parveen Kumar of P.S. Mukherjee Nagar. The H.C. was asked to give the information to his SHO and senior officer by the staff of PCR. On this he told that SHO was not present in P.S. and Addl. SHO had been informed who directed him to pass the message to PCR. He used rough/vulgar language with the staff of Central Police Control Room. Later on, it was confirmed by the PCR from D.O. Mukherjee Nagar, that the H.C. was sleeping on his point during night duty, so S.I. Praveen Kumar took his wireless set and came in P.S. This fact was already told to the H.C. Despite knowing the facts about his set, he passed wrong information to PCR at No.100 to save himself and used rough/vulgar language with PCR staff which is a serious lapse on his part."

6. Delhi Police (Promotion & Confirmation) Rules, 1980 provides the necessary guide-lines under sub-rule (i) of rule 5, which reads as under:



"(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 (Amended vide Notification No.F.5/60/83-H (P)/Estt., dated April 7, 1984). Zone of consideration will be determined in accordance with the rules/instructions issued by the Government from time to time."

It is abundantly clear from the aforesaid that promotion from one rank to another has to be made by selection tempered by seniority. The most important factors are efficiency and honesty. The same shall be the main factors governing selection.

7. Efficiency and honesty can be determined on the basis of the service record and other facts that are available before the DPC. We had called for the service particulars of the applicant and perused the same. There is no adverse entry against the applicant, but matters of promotion are essentially the domain of the DPC. Whether a particular candidate is 'fit' or 'not fit' for promotion is to be decided by the DPC. This cannot be the domain of the Tribunal. The nature of dereliction of duty ascribed to the applicant clearly shows that he cannot be stated to be very efficient. Besides, he also used rough and vulgar language with the staff of the Central Police Control Room. Once the DPC has considered the same, this Tribunal cannot give its own findings over and above the findings of the DPC.

8. The Circular referred to by the applicant will also not help him though it is asserted that officers who had been awarded censure in the last six months with no other

A handwritten signature in black ink, appearing to read "M. A. Agarwal".

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punishments "can be allowed to be brought on the Promotion List". The expression used is pregnant with meaning that it is for the DPC to consider whether a person can be allowed to be brought on the Promotion List or not. The objectivity with which the DPC consider~~s~~ would also be taken into consideration. Therefore, after taking note of rule 5 (i) referred to above and other circumstances, the DPC held that the applicant was not fit to be promoted. We find no merit in the facts of the present case to interfere.

9. Resultantly, the application being without merit fails and is dismissed.

S.K. NAIK

(S.K. NAIK)

MEMBER (A)

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(V.S. AGGARWAL)

CHAIRMAN

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