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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.40/2002

Friday, this the 13th day of January, 2003

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

Shri Keshav C. Dwivedi & Others ...Applicants  
(By Advocate: Shri Madhav Panikar)

Versus

Union of India & Others ...Respondents  
(By Advocate: Shri R.N.Singh for Shri R.V.Sinha)

Corum:-

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

1. To be referred to the reporter or not? YES ✓
2. Whether it needs to be circulated to Benches of the Tribunal? NO

(Govindan S. Tampi)  
Member (A)

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

1. Shri Keshav C. Dwivedi  
s/o Shri Lalia Prasad Dwivedi  
19LF, Tansen Marg  
New Delhi-1  
  
Presently posted as  
Deputy Commissioner of Police (Licensing)  
Delhi Police, Police Headquarter  
IP Estate  
New Delhi-2
2. Shri Naresh Kumar  
s/o Lt. Sh. Jagan Nath  
r/o 535/Sector-3  
R.K.Puram, New Delhi  
  
Presently posted as  
Deputy Commissioner of Police (5th Battalion)  
Delhi Police  
New Delhi
3. Shri H.P.S. Virk  
s/o Shri Harbhajan Singh  
A-4, Type-V  
New Police Lines  
Kingsway Camp, Delhi  
  
Presently posted as  
Deputy Commissioner of Police (3rd Battalion)  
Delhi Police, New Delhi
4. Shri D.L.Kashyap  
s/o Lt. Shri P.L.Kashyap  
Flat No.4  
Type-V DCP (South)  
Complex, Hauz Khas, New Delhi-16  
  
Presently posted as  
Deputy Commissioner of Police  
(Crime Prevention Cell)  
Delhi Police, Police Headquarter  
IP Estate, New Delhi-12

... Respondents

(By Advocate: Shri Madhav Panikar)

Versus

1. Union of India  
through its Secretary  
Ministry of Home Affairs  
North Block, New Delhi-1
2. Lt. Governor  
Govt. of National Capital  
Territory of Delhi  
Raj Niwas, Delhi-54

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3. Commissioner of Police  
Police Headquarters  
IP Estate, New Delhi-2

...Respondents

(By Advocate: Shri R.N.Singh for Shri R.V.Sinha)

O R D E R (ORAL)

Shri Govindan S. Tampi:

Reliefs sought for in this OA filed by Shri Keshav C. Dwivedi and four others are as under:-

- i) call for the records of the case;
- ii) quash the order No. 14016/7/2001-UTS - II dated 4.7.2001 to the extent which denies the applicants from wearing the Badges of rank as applicable to the members of IPS placed in the scale of Rs. 14,300-18,300 as being illegal, arbitrary, discriminatory and untenable in law besides without any power and jurisdiction and with all its consequential reliefs;
- iii) direct the respondents to allow the applicants to wear the Uniform as well as Badges as being worn by the officers of equivalent rank recruited from other services as per the rules with all its consequences;
- iv) allow costs of application;
- v) pass any other order or orders which this Hon'ble Tribunal may deem just & equitable in the facts and circumstances of the case."

2. All the four applicants belonging to National Capital Territory of Delhi, Andaman & Nicobar Islands, Lakshdweep, Daman & Diu and Dadra Nagar Haveli Police Service (DANIL, DD & DNH Police Service) are promoted on 25.6.2001 to the newly created grade in the pay scale of Rs.14,300-18300/- but the order stood modified on 4.7.2001, inserting the words 'non-functional' after 'newly created' and <sup>with</sup> the endorsement as below:-

"The aforesaid appointment will not entitle the officers concerned to wear the badges of rank as are applicable to the members of IPS who are holding posts in the scale of pay of Rs.14,300-400-18,300/-"

3. DANIL, DD & DNH Police Service Rules, 1998 make no specific mention in respect of the uniform to be worn by the officers concerned, but in terms of Rule 15, it is directed that the conditions of service in respect of matters for which no specific provision has been made in these Rules, shall be the same as are applicable from time to time to the officers of equivalent rank in the Central Government. In terms of DANIPS's directions, badges of rank to be worn by the officers are indicated as one star for those under training or with less than two years' service, two stars for those with service between two and five years, and three stars for those Incharge of Sub-Division or holding post of equivalent status in the Police Headquarters or with service of five years and more. As 1971 Rules do not have any provision to deal with the uniform and badges, they are to be governed by the rules and regulation and orders governing corresponding officers serving in connection with the affairs of the Union. Officers of DANIPS are eligible for promotion to the higher grade of Dy. Commissioner of Police in the scale of Rs.14300-18300/- though it is generally held by the officers of IPS. All the applicants have already been posted and working as Deputy Commissioners of Police (DCP), like the officers directly recruited to IPS, discharging the functions and duties as such, and enjoying the perquisites attached to the posts of DCPs but they have been prevented from wearing the

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uniform and badges as worn by those in IPS, holding the same posts. Applicants have thus been discriminated against without any justification or tenable reasons. The officers of IPS and Central Para-Military Organisation (CPMO) working in the scale of Rs.14300-18300/- are allowed to wear one State emblem, two stars and Gorget patches of dark blue woollen material with a silver centre strip, while the applicants are allowed to wear only the State emblem and one star. This OA is directed against this discrimination.

4. The grounds raised in this OA are that:
- (a) the applicants are already working as DCP, Delhi in the scale of Rs.14300-18300/- and discharging the functions, duties and responsibilities attached to it,
  - (b) the applicants have been discriminated with reference to wearing of uniform and badges, and the present order seeks to perpetuate the discrimination,
  - (c) in matters not specifically provided for, they are entitled to have the benefit of the same provisions as are applicable to corresponding officers serving in connection with the Affairs of Union in other services,
  - (d) directions in respect of residuary matters in terms of Rule 33 of 1971 Rules are also in their favour,

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- (e) the respondents have not acted in a fair manner as was expected of them while discharging duties as a public authority,
- (f) the Corrigendum dated 4.7.2001 was totally illegal, arbitrary, discriminatory and untenable; and
- (g) the Central Para Military Forces, like CISF, also permit Senior Commandants carrying the above pay scale to wear the Ashoka <sup>emblem</sup> and two stars with Gorget patches, which are denied to the applicants.

In view of the above, the OA should succeed, plead the respondents.

5. In the counter affidavit filed on behalf of the respondents, it is pointed out that DANIPS (now DANIL, DD & DNH Police Service) had only two grades of pay of Rs.650-1200/- and Rs.1100-1500/- and further promotional avenues were available to them only on their <sup>selection</sup> appointment to IPS. Their appointment orders had always continued a mention about the badges of rank, in terms of which they were permitted to wear maximum three stars only. To remove the stagnation in promotion, they have been granted a Junior Administrative Grade (JAG) in the scale of pay of Rs.3700-5000/- in 1995, in posts to subordinate posts of Deputy Commissioner of Police in Districts/Units and Principal, PTS. After the adoption of the 5th Central Pay Commission, the pay scales were re-organised

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in Entry Grade (Rs.6500-10500 & 8000-13500/-), Selection Grade (Rs.10000-15200/-), Junior Administrative Grade II (Rs.12000-16500) and Junior Administrative Grade I (Rs.14300-18300/-). Creation of this non-functional grade of Rs.14300-18300/- was a stagnation removal ~~measure~~ <sup>measure</sup> and the same did not create a fresh ~~rank~~ <sup>rank</sup> structure, warranting, change in the uniform and badges. Though the applicants have been promoted to the newly created Non-Functional Grade, there was no change in the level of duties and responsibilities discharged by them and they continue to draw their salaries from the post of Additional DCP. They cannot ask for anything further. The reliefs prayed for by the applicants were not maintainable as the scale of pay was not the sole criterion of the functional status and the rank of the officers concerned. This requirement warrants that subordinate officers wear badges of rank lower than those of their immediate superior officers. Police Inspectors, who are in the same pay scale as that of Assistant Commissioners of Police but are wearing different and lower rank badges to maintain proper hierarchy. Similarly, DANIPS is a Group 'B' Service as against IPS, <sup>services</sup> which is a Group 'A' Service, ~~is~~ subordinate to and feeder, for promotion to IPS and, therefore, there was no basis for drawing the parallel between the service conditions of the members of these services, one higher and other lower. The posts of Add. DCP and Vice Principal, PTC<sub>2</sub>, are operated in the scales of pay of Rs.12000-16500/- and Rs.14300-18300/-. They are subordinate to the posts of DCP and Principal, PTC<sub>1</sub>, which are IPS cadre posts and, therefore, granting the feeder cadre <sup>with</sup> parity in badges

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of rank will erode the command and control structure in Delhi Police, which is a uniformed police force. They cannot expect anything more than the permission to wear three stars, as provided for in terms of Clause (xii) (d) of the terms and conditions in their service, merely because of their promotion to the newly created pay scale of Rs.14300-18300/-. In view of the specific provisions contained in Clause (xii) of the terms and conditions of their appointment and the provisions in Clause (ix) as well as Rule 33 of DANIL, DD & DNH Police Service Rules, 1998 have no relevance as far as the wearing of the badge and rank is concerned. Though all the applicants have been promoted to the Junior Administrative Grade of Rs. 12000-15000/- and Rs.14300-18300/-, the said posts are not operated as DCPs. They are not strictly DCP's post but just designated so, for the sake of administrative convenience. This has been done by Delhi Police without obtaining specific approval from the Government. The applicants' attempt to draw a parallel in the entitlement granted to those of Central Para Military Forces is also improper, as in those Organisations, direct recruitment is to Group 'A' post unlike the position in the applicants' service. In other Organisations, Senior Commandants are promoted to NFG on the basis of vacancies, while in the case of the applicants, it has been granted as a stagnation removal measure. They continue to remain as the feeder cadre for IPS. Therefore, permitting the applicants to wear the uniform prescribed for the IPS would tantamount to a breach of the terms and conditions of their appointment to DANIPS. This would <sup>also</sup> militate against the framework of

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All India Services (IPS), Uniform Rules and the discipline within Delhi Police.

6. In the rejoinder filed on behalf of the applicants, it is pointed out that though the DANIL, DD & DNH Police Service Officers could earlier go only upto the rank of ACP/Deputy Superintendent of Police later, they <sup>now have now</sup> became eligible for appointment to DCP rank. The applicants were appointed in 1978, 79 and 80 when the maximum only rank provided in their service was that of Deputy Suptd. of Police/ACP as per Service Rules, as amended upto 17.5.1979, but the conditions are changed and they are permitted to be promoted upto the rank of DCP and, therefore, the terms of appointment issued way back in 1979 have become redundant and need to be modified. The applicants are heading various Units as DCPs both de facto and de jure. It is also to be seen that the officers, both from IPS as well as from the service to which the applicants belong, work as DCPs and the posts are being inter-changed. The respondents are also incorrect when they state that the applicants and others were being appointed to JAG from 25.4.2000, whereas they had been regularised w.e.f. 14.8.1998 in terms of the order of Tribunal dated 6.2.2002 in OA-1453/2001. They are also reporting direct to superiors, like Additional CP and Joint Commissioner of Police, <sup>like ACPs from IPS</sup> and the applicants are not subordinate to <sup>Class 2</sup> DCP, as claimed by the respondents. The grant of the pay scale of Rs.14300-18300/- to the applicants and posting <sup>Class 2</sup> as DCPs has resulted in the change in the badges of rank on the lines of IPS, DCP<sub>2</sub>. They perform similar duties as their

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IPS counterparts. As the applicants have established their de facto and de jure functional parity with DCPs coming from IPS and Central Para Military Forces, Commandants/Unit-Heads, ~~the~~ respondents' contention that the subordinate officers wear badges of rank lower than those of their immediate superiors is false and misleading. It is pointed out that Inspectors & ACP do not have the same grade as on completion of four years ACPs move to a different grade, and they are in different Groups - Groups 'C' & 'B' respectively. In fact the applicants fall within the Group 'A' in terms of SO 332 (E) issued on the basis of the 5th Pay Commission <sup>Pay</sup> scale and their service is not a notified feeder cadre for IPS. Once their functional parity with those from the IPS is established by way of pay structure, duties and responsibilities, there was no reason why the simple and normal corollary of permission to wear the rank badges should not <sup>have</sup> been extended to the applicants. The respondents are guilty of total misrepresentation of facts when they characterise the applicants' service as a subordinate service. OA should, in the circumstances, be allowed and justice rendered to them, plead the applicants.

7. Shri Madhav Panikar, learned counsel appearing for the applicants forcefully reiterates the points. He stresses that what they are requesting for is the parity in the matter of uniform and the badges commensurate with the position they are holding and the duties they are discharging. Having acquired the status of the officers of the JAG-I and holding the posts of DCP in Delhi



Police, very much like the IPS officers directly recruited, they only plead that they be permitted to wear the uniform and badges which correctly go with their rank and post. They cannot and they are not asking for insignia of IPS, as such, as there is a difference in the Service but are only asking that having been given the rank of DCP, the corresponding badge of the rank be permitted to be worn by them. This was only just and fair, pleads Shri Madhav Panikar. Shri R.N.Singh, learned proxy counsel appearing on behalf of the respondents, on the other hand, argues that applicants, belonging as they do, to a subordinate service and always working as subordinates to those from the IPS and act as the feeder cadre, cannot expect to be granted the same badge or the insignia which the IPS officers are granted as of right. The applicants' request <sup>is</sup> mischievous and cannot be permitted, according to Shri Singh.

8. We have very carefully deliberated on rival contentions. This is a case where a section of a uniformed service has come with a request that they be granted the normal and just privilege of wearing the uniform and badges, which go with the rank of the posts they are holding and duties they are discharging. In spite of the strident protestations made on behalf of the respondents in their counter affidavit and the very forceful pleas made by the learned proxy counsel for respondents, it is evident that all the applicants, who are placed in the Non-Functional Junior Administrative Grade-I, are performing <sup>the</sup> duties and discharging functions as DCPs. It is also brought on record that under Delhi

Police Establishment itself, the posts in the level of DCPs are rotated between the IPS officers and the applicants. Respondents also have not brought anything on record to show that the post at the DCP level, held by the applicants are junior or second class posts, as they would like us to believe. Their version that the post of DCPs held by them are not sanctioned posts but posts created for administrative convenience fails to carry any conviction, as it is found that posts, like DCP (Delhi Armed Police Battalion), DCP Headquarter Establishment, DCP (Special Cell) are being held by IPS Officers and those from the applicants' service. In that scenario, the applicants, who are working as DCPs and discharging the functions and responsibilities as such, cannot at all be treated as subordinate to or inferior to IPS officers working as DCPs and performing in similar manner. The request in this OA is for the vindication and restoration<sub>2</sub> of self-respect and pride of the applicants, who in spite of having reached the Non-Functional Junior Administrative Grade, find themselves being made to play second fiddle to their counterparts from IPS. The respondents seem to be harking back to the days when the erstwhile DANIPS, ~~which~~ was a Group "B" Service, the Members of which could not hope to rise beyond the level of Assistant Commissioner or Deputy Supdt. of Police. However, a sea change has occurred since then and the members of the new Service DANIL, DD & DNH Police Service can legitimately look forward to becoming DCPs and drawing salary in the Junior Administrative Grade. By becoming entitled to the higher scale of pay, they had also entered Group "A" Service in terms of classification

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directed after the 5th CPC's recommendations have been accepted, drawing salary <sup>as they do</sup> in a pay scale with maximum of more than Rs.13500/- (the only exception being the Sr. Audit Officer/Sr. Account Officers in Accounts Organisation). Therefore, the instructions issued earlier in respect of DANIPS, on uniform and badges have ceased to be of any relevance and call for modification. And no such instructions have been issued with reference to the new service by the Rules of 1998. The applicants are, therefore, correct when they aver that Rule 15, which reads as below, will have to be accepted:-

"15. Other conditions of service:- The condition of service of members of the service in respect of matters for which no specific provision has been made in these Rules, shall be the same as are applicable from time to time to the officers of the equivalent rank of the Central Government."

It follows, therefore, that the applicants would be rightly entitled to wear the uniform and badges commensurate with the rank and post they hold and the pay they draw. As observed earlier, the applicants, work, as DCPs, performing the same functions and discharging the same duties as DCPs from IPS cadre, they report to the same superiors, like Addl. Commissioner/Joint Commissioner, etc. and draw the same pay scale and enjoy similar perquisites. They are also similarly placed as the Commandants in the Central Para Military Forces. The only difference seems to be that whereas the applicants have originally joined as Group 'B' Officers, while the others, like the IPS officers and those in Central Para Military Forces, have originally joined in Group 'A'



The same, as observed above, are admissible to them, in terms of rules and instructions on the subject. Denying them the same, goes against all canons of administrative law.

9. In the above view of the matter, we are fully convinced that the impugned Corrigendum No.14016/7/2001 -UTS-II dated 4.7.2001, attaching the rider to promotion orders of the same number dated 25.6.2001, which does not have any sanction in law and which cannot be sustained, has to go.

10. OA, therefore, succeeds and is accordingly allowed. The impugned Corrigendum dated 4.7.2001 is quashed and set aside. The respondents are directed to permit the applicants, who are working as Deputy Commissioners of Police and/or holding equivalent rank and are drawing pay in the Non-Functional Junior Administrative Grade-I of Rs.14300-18300/-, to wear the uniform and the badges, as are permitted to officers of IPS holding the same rank and post. The necessary directions in terms of this order shall be issued by the respondents before the end of this month, i.e., by 31.1.2003 positively. No costs.

  
(Shanker Raju)  
Member (J)

/sunil/

  
(Govindan S. Tampi)  
Member (A)