

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No 1267/20002
T.A.No.

Date of Decision 27.5.2002

Constable Mahee Lal Meena Petitioner

Shri Sachin Chauhan --- Advocate for the Petitioner(s)

VERSUS

UOI and Ors. --- Respondent

Shri Ajesh Luthra --- Advocate for the Respondents

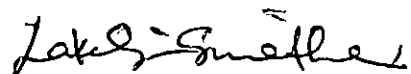
Coram:-

Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)

Hon'ble Shri M.P.Singh, Member (A)

1. To be referred to the Reporter or not ? Yes

2. Whether it needs to be circulated to other
Benches of the Tribunal? No


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 1267/2002

New Delhi this the 27th day of May, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri M.P. Singh, Member (A)

Constable Mahee Lal Meena
No.1862/NW, PIS No.28900801,
S/O Sh.Mange Lal Meena
presently posted at P.S.Keshav
Puram, R/O Q.No.432, Police
Colony, Ashok Vihar, Delhi.

... Applicant

(By Advocate Shri Sachin Chauhan)

VERSUS

1. Union of India through
its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Dy.Commissioner of Police,
Head Quarter (Estt.), I.P.Estate,
MSO Building, New Delhi.

... Respondents

(By Advocate Shri Ajesh Luthra)

O R D E R (ORAL)

(Hon'ble Smt.Lakshmi Swaminathan, Vice Chairman (J)

In this application, the applicant has prayed for a direction to the respondents to include his name amongst the Constables in Promotion List 'A' for deputation to Lower School Training (LST) Course.

2. This OA has been filed on 8.5.2002. By Tribunal's order dated 13.5.2002, Dasti notice was issued to the respondents as to why the applicant should not be deputed provisionally for LST Course immediately, to which the respondents have filed a detailed reply with copy to the opposite side on 24.5.2002. In this reply, the respondents have submitted that after giving average marks in physical

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test on medical grounds, the applicant made the grade and his name was admitted to promotion list 'A' w.e.f. 1.12.1999 and his seniority was fixed at an appropriate place in that list by Headquarters Order dated 25.6.2001. They have also stated that after admission of applicant's name in promotion list 'A', he was required to be deputed for LST Course in the next batch after getting him medically examined by Civil Surgeon. They have, however, submitted that due to over-sight, the applicant was not directed for medical examination/ deputed for LST course along with 19 Constables whose names exist on promotion list 'A' and who have been declared medically fit and were sent for LST course which commenced on 26.3.2002 at P.T.S. Jharoda Kalan, New Delhi. They have relied on Standing Order 147/1997. This Order, inter-alia, provides that 90 % attendance in indoor/ outdoor period is compulsory and relaxable by 5 % in exceptional circumstances by the competent authority. Learned counsel for the applicant has submitted that this is an exceptional case which deserves extraordinary consideration under clause 7 of Standing Order 147/1997.

3. On the other hand, Shri Ajesh Luthra, learned counsel, has submitted that under Standing Order, 90 % attendance is compulsory. In this case, he has submitted that the LST course commenced w.e.f. 26.3.2002 and we are now in the end of May, 2002 and so the applicant could not be deputed for the said training as it would not be in accordance with the relevant Standing Order. Learned counsel has submitted that as given in the reply itself, a special

batch for LST course is likely to commence shortly, which he submits is probably in June-July, 2002 and the applicant's medical fitness is also required for the said Course. Shri Sachin Chauhan, learned counsel has submitted that the applicant's name has been admitted in promotion list 'A' as far back as 1.12.1999 although by order dated 25.6.2001 and there is also fault on the part of the respondents in over-looking his name for sending him to LST Course which had commenced on 26.3.2002.

4. We have carefully considered the facts and the submissions made by the learned counsel for the parties. They have also submitted that the OA may be disposed of finally.

5. From the reply filed by the respondents, it is seen that they have admitted that the applicant was not sent for LST Course which commenced in the end of March, 2002 which is due to an over-sight. Shri Ajesh Luthra, learned counsel submits that this was apparently due to the fact that the applicant had earlier filed OA 381/2000 which was dismissed by order dated 3.4.2000. Thereafter, Review Application 171/2000 was allowed by Tribunal's order dated 22.9.2000, directing the respondents to consider the applicant's case under Standing Order No.91/89 read with appendix dated 5.5.92 by giving him an opportunity to produce the requisite medical certificate from the competent Medical Officer (Copies of the orders in RA and OA are placed at pages 8-11 of the paper book). Subsequently in pursuance of the aforesaid orders of

the Tribunal dated 22.9.2000 in RA 171/2000, the applicant's name was brought in promotion List 'A' w.e.f. 1.12.1999 by Respondents' order dated 25.6.2001. In the facts and circumstances of the case, it cannot be stated that the over-sight on the part of the respondents is either deliberate or not bona-fide when the applicant's name had been omitted to be sent for the LST course which commenced on 26.3.2002, although no doubt there has been some lapse on their part. We note the submissions made by Shri Ajesh Luthra, learned counsel, that this will not adversely affect the applicant's service conditions provided he is sent and completes the LST course which is to start in June-July this year when other constables are also sent for the said training. Accordingly, we order that applicant should be deputed for the next available Lower School Training(LST) Course, subject to his fulfillment of the other conditions, including medical fitness.

6. In the facts of the case, we agree with the contention of the learned counsel for the respondents that as the applicant's name has already been brought on promotion list 'A', part of the prayer in Para 8 of the OA no longer survives. Regarding his being sent for deputation ^{to} the LST course, this shall be done by the respondents as already ordered in paragraph 5 above. O.A. is accordingly disposed of. No order as to costs.

(M.P.Singh)
Member (A)

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(Smt.Lakshmi Swaminathan)
Vice Chairman (J)