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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.1499 of 2002

New Delhi, this the 3rd day of October 2002

**HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI M.P. SINGH, MEMBER (A)**

Mr. Rajendra Prasad, Head Constable No.584 NW
PIS No.28760533
S/o Shri Girdhari Lal
R/o RZC – 44, Dabri Extension East,
New Delhi.

.....Applicant

(By Advocate : Ms. Jasvinder Kaur)

VERSUS

N C T of Delhi
Through Commissioner of Police
Police Head Quarters,
I.P. Estate,
New Delhi.

....Respondent

(By Advocate : Shri Ajesh Luthra)

ORDER (ORAL)

Shri Justice V.S. Aggarwal, Chairman:

The applicant had been appointed as a Constable in Delhi Police. He was promoted to the rank of Head Constable on 12.6.1987 and was confirmed as such w.e.f. 12.6.1989.

2. In view of some complaints, the applicant was placed under suspension and it was in due course that he was prosecuted departmentally. On both these occasions, he was exonerated and the period of suspension was treated as spent on duty. Further his name figured in the secret list of 'doubtful integrity' was deleted w.e.f. 12.5.1996 vide order dated 12.7.1998.




3. The grievance of the applicant is that despite his having been exonerated, he has not been promoted as Assistant Sub-Inspector and, therefore, he seeks quashing of the order dated 21.5.2002.

4. The order of 21.5.2002 is based on Review DPC and needless to say the case of the applicant for promotion to the rank of Assistant Sub-Inspector had been considered and rejected.

5. Learned counsel for the respondent at the outset urged that OA No:610/1996, which was decided by this Tribunal on 1.2.2001, wherein this Tribunal has already held that it is not for the Tribunal to go into the merits of the matter decided by the Departmental Promotion Committee. He strongly relies upon the findings of this Tribunal in the above said OA 610/1996 in the case of Sukhbir Singh Vs. Commissioner of Police and Others, which reads as under:-

“13. Matters of promotion are essentially the domain of the D.P.C. Whether a particular candidate is or is not entitled to the grant of promotion is for the D.P.C. to decide. This is not and cannot be the domain of the Tribunal. Claim of the applicant for promotion has been considered by the D.P.C.....”

6. The law is settled that precedents have to be viewed in face of what is before the Court. The principle of law is binding. If the precedent is based on the facts of a particular case, necessarily it will have its persuasive view in terms of those facts only. In the case of Sukhbir Singh (supra), the concerned officer had been imposed a penalty of censure as is being averted from the facts of the said case. It was held by this Tribunal in the above case that the Departmental Promotion Committee has vehemently denied in taking into account the said penalty, moreso, when there was an inquiry of




charge of receiving bribe of Rs.200/-. The present case in hand, as already noted above, is totally distinguishable from these facts.

7. We have called for proceedings of the Departmental Promotion Committee and on perusal of the same itself, it is patent that the Departmental Promotion Committee had ignored the fact that the applicant had totally been exonerated of all the charges levelled against him and even the column of 'doubtful integrity' has been corrected. Necessarily it must be held that there is no adverse entry or any other factor against the applicant. The Departmental Promotion Committee in those circumstances was not justified in taking into consideration the extraneous matter. It was not in dispute that the applicant has a benchmark for promotion. Therefore, we have no hesitation in quashing the impugned order dated 23.5.2002 (Annexure A-1) qua the applicant.

8. OA is allowed and it is directed that the case of the applicant should be considered in accordance with the rules to the post of Assistant Sub-Inspector from the date his juniors have been promoted. No costs.


(M.P. Singh)
Member (A)

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(V.S. Aggarwal)
Chairman