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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1413/2002

New Delhi, this the 13th day of January, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri V. Srikantan, Member(A)

Mam Chand Tyagi
6J, Police Colony
Model Town, Delhi-9

.. Applicant

(Shri Arun Bhardwaj, Advocate)

versus

1. Commissioner of Police
Police HQ, IP Estate, New Delhi
2. Joint Commissioner of Police(HQS)
IP Estate, New Delhi
3. Dy. Commissioner of Police
Communication, Rajpur Road
Delhi-54

.. Respondents

(Shri Ajesh Luthra, Advocate)

ORDER(oral)

Shri V.Srikantan

The applicant has filed this application praying for quashing of the order dated 21.12.2001 and for refixing of his seniority and stepping of pay with all consequential benefits as well as cost of the application.

2. Brief relevant facts are that the applicant was selected for the post of Head Constable (Store-Clerk) on 18.12.1979 and he was allotted constabulary number wherein applicant was shown at Sl.No.2. On 12.3.1983, applicant was granted quasi-permanent capacity in the post of Head Constable w.e.f. 18.12.1982. Vide order dated 8.12.1986, respondents confirmed several Head Constables against existing vacancies from 5.7.1983. Applicant was confirmed as Head Constable (Store Clerk) w.e.f. 1.8.83 vide order dated 12.1.87. Applicant, along with others, were promoted to officiate as ASI

(Storeman technical) w.e.f. 3.3.1987 but in this order name of the applicant was shown at the bottom of the list. Applicant had represented through letter dated 2.7.2001 for correct fixation of his seniority and pointed out that he was confirmed only on 1.8.1983 whereas his juniors were illegally confirmed on 5.7.1983. Respondents rejected the plea of the applicant vide letter dated 21.12.2001 holding that applicant's seniority as HC(Store Clerk) and ASI (Storeman technical) had been fixed on the basis of applicant's merit. Being aggrieved by this, applicant has filed this application.

3. The grievance of the applicant is that as he had been placed at Sl.No.2 in the initial order of 1979 as Head Constable (Store Clerk) and he being the eldest among all the candidates selected in 1979 ought to have been placed at the first place in the seniority list. Further, Delhi Police Rules were framed in the year 1980 while the applicant was appointed in the year 1979 and hence these Rules are not applicable in respect of the applicant. As a consequence of illegal confirmation of the juniors prior to the applicant, his juniors are getting more pay than the applicant.

4. Respondents have filed their reply contesting the claim of the applicant. They have pointed out that in terms of Rule 12.2(3) of Punjab Police Rules, seniority of directly recruited lower subordinates of all cadres is to be reckoned by the order of merit fixed by the Selection Board and finally settled from the date of confirmation. The inter-se seniority of HC(Store Clerk) including the applicant recruited during the year 1979 was fixed on the basis of order of merit fixed by the

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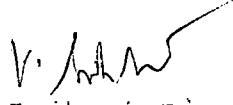
selection Board as per above mentioned Rules. According to them, applicant ranked at Sl.No.8 in the order of merit and that HCs who ranked at Sl.No.1 to 6 and who were senior to the applicant in the order of merit were confirmed w.e.f. 5.7.83 vide order dated 26.11.86 on availability of permanent posts and subsequently when two more permanent posts became available, HC at Sl.No.7 of the merit list alongwith the applicant were declared confirmed from 1.8.1983 vide order dated 3.1.1987. Applicant was promoted as ASI (Storeman technical) w.e.f. 3.3.87 vide order dated 3.3.87. Applicant had submitted a representation on 2.7.2001 but on his case being re-examined, it was found that his inter-se seniority as HC (Store Clerk) had rightly been fixed at appropriate place and the applicant was also informed accordingly. Respondents have also pointed out that applicant was not the eldest person and in any case it was not relevant for fixation of seniority on merit.

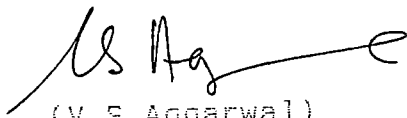
5. We have heard Shri Arun Bhardwaj, learned counsel for applicant and Shri Ajesh Luthra, learned counsel for respondents and perused the records.

6. The main contention is regarding seniority of the applicant in the cadre of HC. Applicant claims that he was at Sl.No.2 whereas respondents have stated that he was at Sl.No.8 in the selection made in the year 1979 and that his seniority has been correctly fixed in terms of existing Rules. They have also produced the Seniority Register of all Technical cadres and it is seen from the details recorded therein that the ^{name} of the applicant appears at Sl.No.8 in the merit list of direct recruit HCs and that this has been made on the basis of marks

obtained. This register was also shown to applicant's counsel. However, the applicant's counsel raised the point that it is only the seniority register and not the original documents showing the marks obtained by the applicant and others recruited in the year 1979 which would be the basis for the merit list. We have considered the contention of the learned counsel for the applicant. However, we have no reason to doubt the authenticity of the seniority register being maintained over a period of several years. Respondents have pointed out that at this stage, it would be difficult for them to produce the original documents that too relating to the year 1979. In the circumstances, seniority as allotted to applicant at Sl.No.8 in the merit list of Head Constable has to be accepted as his meritorious position. Once this is accepted, subsequent confirmation from 1.8.83 and promotion of the applicant to the post of ASI and placing him at the bottom of the list has also to be held to be in order. Applicant has no claim over the others who were promoted along with him and given higher seniority as they were senior in terms of the merit list.

7. In view of the above position, the present OA is devoid of merits and the same is accordingly dismissed. No costs.


(V.Srikanthan)
Member(A)


(V.S. Aggarwal)
Chairman

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