

**Central Administrative Tribunal
Principal Bench**

OA No.3818/2014



New Delhi, this the 6th day of February, 2020

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)

Assistant Sub-Inspector Satyabir Singh,
Belt no.4882-D, PIS No.28871749,
Presently posted at:-
Security Lines 'E' Block,
S/o Sh. Mahipal Singh,
R/o D-892, Gali No.13,
Ashok Nagar, Shahdra, Delhi,
Group 'C', Aged 47 years.

...Applicant

(By Advocate : Shri Saurabh Ahuja)

Versus

1. GNCT of Delhi,
Through Commissioner of Police,
Police Head Quarters, IP Estate,
MSO Building, New Delhi.
2. Deputy Commissioner of Police,
(Headquarters), PHQ, IP Estate,
MSO Building, New Delhi.

...Respondents

(By Advocate : Shri K.M. Singh)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant was appointed as Constable on 16.11.1987. He was promoted as Head Constable on out of turn basis on 24.03.2005. The applicant exhibited some extra ordinary devotion to duty, in an event, in the year 2007. Though the other participants were extended the benefit of out of turn promotion, he was denied that, on the ground that he earned out of turn promotion just two years ago. The applicant and another filed OA No.1513/2007 before this Tribunal, in this behalf. The OA was allowed and with the dismissal of the Writ Petition filed by the respondents, the benefit of out of turn promotion was extended to the applicant on the post of ASI, through order dated 31.03.2011 w.e.f. 24.11.2007.

2. The applicant was subjected to training and on completion of the same, on 13.02.2009, he and four other ASIs, who were promoted on out of turn basis, were directed to be included in the seniority list for the year 2009, at the relevant places. This OA is filed challenging the order dated 19.01.2012 and with a prayer to direct

the respondents to re-fix his seniority, in the rank of ASI from December, 2007, in terms of the judgment of Larger Bench of this Tribunal.



3. The applicant contends that under Rule 19 (ii) of the Delhi Police (Promotion and Confirmation) Rules, 1980, an official who is promoted on out of turn basis, is entitled to be included in the seniority list of the same year and the Larger Bench of this Tribunal interpreted the Rule in OA No.2047/2006 and batch, through a detailed order dated 24.03.2011. It is also stated that the judgment of the Larger Bench was upheld by the Hon'ble High Court of Delhi in W.P. (C) No.2414/2012 and batch on 06.05.2013.

4. Respondents filed counter affidavit opposing the OA. It is stated that imparting of training to a promoted candidate is essential under the relevant rules and they included the name of the applicant in the seniority list, at the relevant place, as soon as he completed the training along with other four candidates.

5. We heard Shri Saurabh Ahuja, learned counsel for the applicant and Shri K.M. Singh, learned counsel for respondents.



6. Sub Rule (ii) of Rule 19, was interpreted by the Larger Bench of this Tribunal in OA No.2047/2006. The earlier view of the Full Bench that a person who is promoted on out of turn basis shall be entitled to be included in the seniority list of the year, in which he completes the training; was held to be not correct and it was directed that the inclusion shall be in the seniority list of the same year, in which the official was promoted, on out of turn basis. That view was upheld by the Hon'ble High Court of Delhi, and as of now, SLP is pending before the Hon'ble Supreme Court.

7. It is true that there are instances where the relief is granted, in terms of the judgment of the Larger Bench, subject to the outcome of the Civil Appeal, pending before the Hon'ble Supreme Court. One factor, which, however, comes in the way of granting such relief to the applicant, is that through the impugned order, as many as 5 ASIs were assigned places in the seniority. The applicant is



the last among them. In case the relief, as prayed for, is granted, he would steal a march over the remaining four others, who are undisputedly senior to him. In addition to that, several ASIs who were promoted on regular basis would be affected in case the request of the applicant is acceded to. By this time, further promotions to the post of SI and Inspector may have taken place. Any relief granted at this stage would have its own cascading effect. It is essential that all the affected persons figure as parties to the proceedings.

8. We, therefore, dispose of the OA, leaving it open to the applicant to file a fresh one, duly impleading all the ASIs, who worked at the relevant point of time, and are likely to be affected, in case he is declared as senior.

There shall be no orders as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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