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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1093/2001

New Delhi this the 12th day of December, 2002

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

Davender Nath(4242/D)
S/O Sh. Rattan Chand
R/O 819, Sector 3, R.K. Puram,
New Delhi.

...Applicant

(By Advocate Shri Shyam Babu)

VERSUS

1. Govt. of NCT Delhi through its
Chief Secretary 5, Sham Nath
Marg, Delhi.
2. Addl. Commissioner of Police
(Establishment)
Police Headquarters, I.P. Estate,
New Delhi.
3. Ms. Veena Bala(524/Communication)
4. Ms. Usha Tayal (525/Commn.)
5. Ms. Neelam Kukreja (526/ Commn.)
6. Ms. Prem Kumar (527/Commn.)
7. Mr. Dharam Pal (529/Commn.)
8. Ms. Pushaplata (552/Commn.)
9. Ms. Balwinder Kaur(194/Commn.)
10. Ms. Veena Kumar (554/Commn.)

(Services on respondent No. 3 -10 to
be effected through Respondent No. 2)

... Respondents

(By Advocate Shri Vijay Pandita)

O R D E R (ORAL)

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

By filing this OA the applicants seek the following
main reliefs:-

" (a) call for the records of the case and
quash/set aside the order dated 9.2.2001
(Ann.A),

(b) declare that the applicant is senior to

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respondents 3-10 and is also entitled to be placed above these respondents as ASI (WO) as well as SI (WO) in order dated 7.8.1992 (Ann.F) as well as order dated 7.8.95 (Ann.J) with all consequential benefits which are admissible in law,

(c) declare rule 22 of Delhi Police (Appointment and Recruitment) Rules or any other rule which gives seniority on the basis of confirmation as arbitrary and unconstitutional".

2. Admitted facts of the case are that the applicant was appointed as Constable in Delhi Police w.e.f. 9.9.1969. He was confirmed as such w.e.f. 1.7.1974. Thereafter he was promoted as Head Constable (AWO) w.e.f. 24.2.1975. The applicant was confirmed as Head Constable (AWO) w.e.f. 1.1.1981. Respondent Nos.3-10 were appointed as Head Constable (TEOs) in Sept./October, 1976. They were confirmed as Head Constable (TEO) w.e.f. November, 1979. Thus the applicant was appointed as Head Constable on substantive basis earlier than the Respondent Nos.3-10 but merely because the private respondents were confirmed earlier w.e.f. 29.11.1979 as Head Constable (TEO), they were given seniority over the applicant. According to the applicant, one Shri Ved Parkash, who is similarly situated, filed an application in the Tribunal (OA 491/94) claiming seniority over respondents 3-10. The Tribunal by its order dated 6.1.2000 allowed the application filed by Shri Ved Parkash. In pursuance of the judgement of the Tribunal dated 6.1.2000 in OA 491/94 - Shri Ved Parkash was given all benefits including placing him at Serial No.1 above respondents 3-10 vide Notification dated 14.9.2000. Since the applicant is similarly situated like Shri Ved Parkash in the aforesaid OA, he is claiming the same benefits. He

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had earlier made representation to the respondents which was rejected by the respondents by their order dated 15.2.2001 on the ground that the decision of the Tribunal in the aforesaid OA 491/94 was entirely for the applicant i.e. Ved Parkash. In that judgement the Tribunal has referred to the relevant rules and the judgement of the Hon'ble Supreme Court in **S.B.Patwardhan and another Vs. State of Maharashtra and Ors.** (AIR 1997 SC 2051) and the **Direct Recruit Class II Engineering Officers Association Vs. State of Maharashtra** (JT 1990(2)SC 264). During the hearing, learned counsel for the respondents has submitted that this judgement has been fully implemented. Learned counsel has further submitted that the judgement rendered by the Tribunal in Ved Prakash's case is not in rem but in persona. Aggrieved by this order, the applicant has filed this OA on 30.4.2001 and has claimed the aforesaid reliefs.

3. Heard learned counsel for the rival contending parties and perused the materials on record.

4. During the course of the arguments, learned counsel for the applicant has drawn our attention to the judgments of the Tribunal dated 6.1.2000 in OA 491/1994 and has submitted that since the applicant's case is covered in all fours by the aforesaid judgement, he should be granted the same reliefs. On the other hand, learned counsel for the respondents has submitted that the reliefs sought for by the applicant cannot be granted as the same is barred by limitation. He has also drawn our attention

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to the judgement of the Tribunal dated 8.11.2002 in OA 5/2002 in which one of us (Shri M.P.Singh, Member (A) was also a Member of the Bench. Learned counsel has further submitted that in the said case, the Tribunal by its judgement dated 8.11.2002 has rejected the claim of the applicant in that OA, namely, Raj Kumar Sharma. He has also submitted that once the seniority is settled long back it cannot be unsettled at a later stage. Rule 22 of the Delhi Police (Appointment and Recruitment) Rules, 1980 which was quashed by the Tribunal vide its order dated 9.5.2001 in OA 1159/1999 cannot be applied retrospectively. The judgement relied upon by the learned counsel for the applicant in the case of Ved Parkash will not render any assistance to applicant. In support of his claim he has also relied upon the judgement of the Hon'ble Supreme Court in the case of **S.S.Bola and others Vs. B.D.Sardana and Ors** (1997(8)SCC 522) , judgement dated 19.7.2000 in the case of **Md.Aziz Alam and others Vs.UOI & Ors** (2001) 10 SCC 93) and the judgement of the CAT (Lucknow Bench) dated 25.10.1994 in OA **Om Prakash Satija Vs.UOI and Ors** (1995(29) ATC 1).


5. We have considered the relied upon judgements by the learned counsel for the parties. We find that the present case is covered in all fours by the judgement of the Tribunal dated 6.1.2000 in OA 491/1994. As regards the objection raised by the learned counsel for the respondents on limitation, we find that the respondents have already considered the representation of the applicant and decided the same on merit on 15.2.2001 and the applicant has filed


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this OA on 30.4.2001 i.e. within a period of one year. As regards the judgement of the Tribunal dated 8.11.2002 in OA 5/2002, the same is not applicable in this OA as the same was rejected on the ground of limitation and not on merits. As regards the judgements of the Hon'ble Supreme Court in the cases of **Md. Azis Alam and Others** ; **S.S. Bola and Ors's** (supra) and the judgement of the Tribunal (Lucknow Bench) in the case of **Om Prakash Satija's** case (supra) are concerned, these judgements will not render any assistance to the learned counsel for the respondents as these are not applicable in the present case and are distinguishable.

6. As mentioned above, the present OA is fully covered by the judgement of the Tribunal dated 6.1.2000 in OA 491/94. ^{therein, I} We hold that applicant is also entitled for the same relief as was granted to Shri Ved Prakash. In the result, OA is allowed and respondents are directed to take appropriate action accordingly within a period of three months from the date of receipt of a copy of this order with intimation to the applicant. No order as to costs.


(M.P. Singh)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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