

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1122/2001 WITH O.A.NO.558/2002

Wednesday, this the 1st day of January, 2003

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Mr. Govindan S. Tampi, Member (A)

OA-1122/2001

Shri Ved Parkash Garg
s/o Late Shri Risal Singh
Working as Deputy Superintendent
Grade-II, Central Jail, Tihar
New Delhi-64

...Applicant

(By Advocate: None even on the second call)

Versus

1. Govt. of National Capital Territory of Delhi
through the Chief Secretary,
5 Sham Nath Marg, Delhi-54
2. Chief Secretary,
Govt. of National Capital Territory of Delhi
5 Sham Nath Marg, Delhi-54
3. Principal Secretary Home
Govt. of National Capital Territory of Delhi
5 Sham Nath Marg, Delhi-54
4. Inspector General of Prisons, Delhi
Prisons Headquarters, Tihar
New Delhi-64
5. Shri B.S.Jarial
Deputy Superintendent Jail
Grade I
c/o Inspector General of Prisons
Tihar Jail, New Delhi-64
6. Shri V.D.Pushkarna
Deputy Superintendent Jail
Grade I
c/o Inspector General of Prisons
Tihar Jail, New Delhi-64
7. Shri B.S.Bhatia
Deputy Superintendent Jail
Grade I
c/o Inspector General of Prisons
Tihar Jail, New Delhi-64

...Respondents

(By Advocate: None even on the second call)

OA-558/2002

Shri Subhash C. Sharma
Deputy Superintendent Jail-II
Central Jail No.2, Tihar, New Delhi

...Applicant

(By Advocate: None even on the second call)

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Versus

1. Govt. of National Capital Territory of Delhi through the Chief Secretary, 5 Sham Nath Marg, Delhi-54
2. Chief Secretary, Govt. of National Capital Territory of Delhi 5 Sham Nath Marg, Delhi-54
3. Principal Secretary Home Govt. of National Capital Territory of Delhi 5 Sham Nath Marg, Delhi-54
4. Inspector General of Prisons, Delhi Prisons Headquarters, Tihar New Delhi-64
5. Shri V.D.Pushkarna Deputy Superintendent Jail Grade I c/o Inspector General of Prisons Tihar Jail, New Delhi-64
6. Shri B.S.Bhatia Deputy Superintendent Jail Grade I c/o Inspector General of Prisons Tihar Jail, New Delhi-64
7. Shri Mahavir Singh Deputy Superintendent Jails Grade I c/o Inspector General of Prisons Tihar Jail, New Delhi-64
8. Shri R.D.Bohat Deputy Superintendent Jails Grade I c/o Inspector General of Prisons Tihar Jail, New Delhi-64
9. Shri K.S.Meena Deputy Superintendent Jails Grade I c/o Inspector General of Prisons Tihar Jail, New Delhi-64

..Respondents
 (By Advocates: Shri Ajesh Luthra, learned counsel
 for official respondents
 Shri S.C.Luthra, learned counsel
 for respondents 7 & 8.
 None for other respondents)

O R D E R (ORAL)

Hon'ble Mrs. Lakshmi Swaminathan:

As none has appeared for the parties in OA-1122/2001 even on the second call, we have proceeded to

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consider the pleadings and relevant documents on record. In view of the fact that it has been submitted by the learned counsel for the respondents in OA-558/2002 that the relevant facts and issues in the above two applications are similar, they have been taken up together and are being disposed of by a common order.

2. For the sake of convenience, the facts in OA-558/2002 have been referred to. The applicant is aggrieved with the seniority list issued by the respondents dated 16.3.2000. He has also impugned the promotion orders issued by the respondents with respect to respondents 5-7 promoting them to the post of Deputy Superintendent Grade-I (for short 'DS Gr.-I') without considering his name for similar promotion.

3. On perusal of the impugned seniority list in the aforesaid two applications, it is noticed that the applicant in OA-558/2002 is at Sl No.6 and applicant in OA-1122/2001 is at Sl No.9. The private respondents against whom the applicants are aggrieved that they have got the promotion to the next higher grade of DS Gr.I are at Sl.Nos. 4, 5 and 7 in OA-558/2002 and at Sl.Nos. 1, 4 and 5 in OA-1122/2001, respectively.

4. Shri Ajesh Luthra, learned counsel for official respondents in OA-558/2002 has submitted that in the cases of respondents 5 and 6, their promotions were kept in a sealed cover because of pending criminal case and disciplinary proceedings. After these proceedings were completed/dropped in accordance with law, necessarily, the

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sealed covers relating to these respondents had to be opened in accordance with the relevant law and rules. Accordingly, they were granted the promotion to the next higher grade of DS Gr.II and later promoted as DS Gr.I. Learned counsel for official respondents has further submitted that the applicant has also been duly considered by the Departmental Promotion Committee (DPC) and his name appears at Sl.No.6 in the select list. There were only five posts of DS Gr.I. Therefore, in the circumstances, the apprehension of the applicant that his name has not been considered for promotion is incorrect. It cannot also be stated that on opening the sealed covers with regard to private respondents 5 & 6 after the conclusion of the criminal case/Departmental proceedings which were then pending against them when the DPC met, they should not be granted promotion, if otherwise found fit in accordance with the relevant law and rules. The applicant cannot have a grievance on this ground.

5. Our attention has been drawn by the applicant to an order dated 7.8.2000 of this Tribunal in the case of B.S.Bhatia Versus Govt. of Union of India & Others (OA-2517/99). In that order, it has been noted, inter alia, that even, though a charge-sheet was pending against the applicant, the respondents had promoted him as DS Gr.II in 1993. In that order, the Tribunal came to the conclusion that there was unexplained delay in concluding the proceedings and the impugned orders were quashed with all consequential benefits. This order has become final. Consequently, the respondents have issued promotion orders promoting Shri S.S.Bhatia along with some other private

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respondents to the grade of DS Gr.I. However, there is a noting in that promotion order that the promotions are subject to the outcome of OA-866/2000 which has been filed by Shri V.S. Bhatti whose name appears at Sl.No.11 in the impugned seniority list.

6.. With regard to the aforesaid OA filed by Shri V.S. Bhatti (OA-866/2000), learned counsel for private respondents has submitted that a Writ Petition No.613/2002 has been filed in the Hon'ble Delhi High Court. The Hon'ble High Court has admitted the said Writ Petition in respect of OA-866/2000. It is also noticed that the Tribunal has passed order dated 19.12.2000 in OA-630/2001 which has been filed by the same applicant. Shri S.C.Luthra, learned counsel has submitted that against the order dismissing the OA, the applicant has filed Writ Petition in the Hon'ble Delhi High Court which has been admitted and is also subjudice.

7.. The learned counsel for private respondents has taken another objection to the OA on the ground that no representation had been made against the impugned final seniority list before filing this OA and that it is also barred by limitation. Shri Ajesh Luthra, learned counsel also reiterates the plea that the OA-558/2002 is barred by limitation with regard to the challenge of vires of the impugned seniority list dated 16.3.2000. OA-558/2002 is filed on 25.2.2002. However, the plea of limitation will not be applicable in the other OA, namely, OA-1122/2001 as that OA has been filed on 1.5.2001. However, in both the cases, the other preliminary objection based on the

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provisions of Section 20 of the Administrative Tribunals Act, 1985 is sustainable.

8. From the facts mentioned above, it is, therefore, noticed that the challenge to the impugned promotion orders promoting the private respondents is not tenable, as it cannot be held that the respondents have acted either illegally, arbitrarily or against the rules.

9. With regard to the challenge to the impugned seniority list, the same is liable to be dismissed in OA-558/2002 as barred by limitation. It has also been noticed that the issues raised in the two applications are also subjudice before the Hon'ble High Court and it would, therefore, be not proper for this Tribunal to deal with the same issues at this stage. It is perhaps for this reason that the applicants and their counsel have not appeared before the Tribunal.

10. In the result, for the reasons given above, we find no merit in these applications. The OAs are accordingly dismissed. No order as to costs.

11. Let a copy of this order be placed in OA-1122/2001.

(Govindan S. Tamai)
Member (A)

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Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)

Vice Chairman (J)