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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1133/2001

New Delhi this the 19th day of November, 2001

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

Inspector Prithvi Singh
No.D-1-1055,
N-1/2, Police Station Quarter
Model Town, Delhi-9

(By Advocate Shri Arun Bhardwaj)

...Applicant

VERSUS

1.Union of India through
Secretary, Ministry of Home
Affairs, North Block, New Delhi.

2.Commissioner of Police,
Police Headquarter, I.P.Estate,
New Delhi.

3.Addl.Commissioner of Police,
Establishment, PHQ,I.P.Estate,
New Delhi.

4.Deputy Commissioner of Police,
HDQRS (I), PHQ, I.P.Estate,
New Delhi.

5.Deputy Commissioner of Police,
HDQRS(II),PHQ, I.P.Estate,N/Delhi.

...Respondents

(By Advocate Shri R.K. Singh, learned
proxy counsel)

O R D E R (ORAL)

(Hon'ble Shri Govindan S.Tampi, Member(A)

The challenge in this OA is directed against the order No.9553-55/CB-II dated 19.2.2001 passed by the Additional Commissioner of Police(ACP) (Establishment) by which the applicant's representation has been rejected. Heard Shri Arun Bhardwaj,learned counsel for the applicant and Shri R.K.Singh,learned proxy counsel for the respondents.

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2. The brief relevant facts of this case are that the applicant who joined on 22.2.1969 as Constable in Delhi Police, was promoted as Head Constable(Exe.) w.e.f. 24.6.1974. Thereafter he became a ASI (Exe.) w.e.f. 4.6.1987. In 1988, the applicant contributed greatly to the honour of Delhi Police by arresting a dreaded terrorist leading to a cache of of arms and ammunition. As a reward for this act of gallantry, he was given out of turn promotion as SI w.e.f. 16.5.1988. His name deserved to be placed at the bottom of the list of SIs of that year in terms of Rule 19(ii) of the Delhi Police (Promotion and Confirmation) Rules, 1980 (hereinafter referred to as 'the Rules'). On the same day another individual was also promoted as Inspector on out of turn and he was granted the benefit of placement at the bottom of the seniority list of Inspectors of the said year. This benefit was not extended to the applicant and he was admitted to the promotion list only in 1994 followed by confirmation in 29.3.1996. On 26.3.1990, the applicant was awarded punishment of censure, though no charge of moral turpitude or illegal gratification was involved in the alleged misconduct. This order was not communicated to him till 6.4.1999, when his promotion as Inspector was due. The applicant was confirmed as ASI w.e.f. 4.6.1990. The applicant again contributed greatly to the honour of the Delhi Police by apprehending another dreaded criminal which also resulted in seizure of a huge quantity of arms and ammunition. For this act of bravery the respondents declared the applicant as the best

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policeman in 1992 and granted him out of turn promotion to the rank of Inspector w.e.f. 28.10.1992. This was also under Rule 19(ii) of the Rules which required the administration to place his name at the bottom of the seniority list of Inspectors of that year. This also was not done. Further on 22.9.1998, the respondents informed the applicant that his seniority has been fixed at the bottom of promotion list E-1 (Exe.) drawn on 29.5.92 and he has been regularised as SI w.e.f. 29.3.1994, whereas he had in fact been promoted on out of turn basis as SI in 1988 and his name should, as per the rules, have been placed at the bottom of list of 1988 and not four years later. Similarly, his name should have been placed at the bottom of promotion list F (Exe.) drawn in the year 1992 following his out of turn promotion as Inspector but the respondents had placed his name in the promotion list only in 1998. The applicant points out that in 1992 another officer was promoted as Inspector out of turn and was given the placement at the bottom of seniority list of 1992, which was denied to the applicant. Learned counsel states that in spite of performance of a high order resulting in his being found fit for promotion out of turn, both as SI in 1988 and as Inspector in 1992, he has not been given the seniority at the bottom of the list of those particular years in terms of Rule 19(ii) of the Rules. He has thus been denied his due rewards. This was incorrect and should be set right in the interest of justice, is what Shri Arun Bhardwaj, learned counsel, for the applicant prays.

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3. Rebutting the above pleas, Shri R.K. Singh, learned proxy counsel for the respondents, states that the respondents have acted correctly and that the applicant has been given what he deserved and that nothing further was due to him. He states that the promotion granted to him was purely on ad hoc basis, without grant of any seniority and was liable to be set aside at any time without any reason and his continuation in the grade was subject to his maintaining good conduct. He refers to penal proceedings initiated against the applicant which finally ended in the award of censure in March, 1990. Therefore, the applicant does not have any legitimate claim for higher seniority. He further relies upon the Circular No 83135-234 dated 3.12.1998 issued by the Additional Commissioner of Police (Hqrs.) communicating the principles to be followed while holding DPC, para (ii) of which states that the "service record of the officer during preceding 10 years in that particular rank shall be taken into account with particular reference to the gravity and continuity of punishments till date. Punishments on counts of corruption and moral turpitude are to be viewed seriously". Besides, he refers to Rule 19(i) of the Rules which states as below:-

"In special circumstances when there are no approved names on promotion lists, and vacancies exist the Commissioner of Police, may promote suitable officers in order of seniority to next higher rank temporarily. Such promotions shall not entitle the officer concerned to claim and right for regular appointment or seniority or for appointment to such or any other equivalent post and shall be liable to reversion without notice as soon as qualified men become available".

In view of the above, the applicant has no case at all, argues Shri Singh, learned proxy counsel for the respondents.

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4. We have carefully considered the matter and perused the documents brought on record. We are convinced that the applicant has a legitimate case. The point for determination in this OA is whether an officer who has been promoted on out of turn basis for exceptional gallantry and devotion to duty, will also be given the benefit of seniority in terms of Rule 19 (ii) of the Rules. The said Rule reads as below.

" To encourage outstanding sportsmen, marksmen, officers who have shown exceptional gallantry and devotion to duty, the Commissioner of Policy may, with prior approval of Administrator, promote such officers to the next higher rank provided vacancies exist. Such promotions shall (not) exceed 5 per cent of the vacancies likely to fall vacant in the given year not in the rank. Such promotions shall be treated as ad-hoc and will be regularised when the persons so promoted have successfully completed the training course prescribed like (lower School Course), if any. For purposes of seniority such promotees shall be placed at the bottom of the promotion list drawn up for that year".

5. Admittedly, the applicant has got his promotion in 1988 as SI and in 1992 as Inspector, although both of which have been as reward for his acts of gallantry in apprehending dreaded criminals and effecting seizures of a huge quantities of arms and ammunition. These promotions have been ordered in terms of Rule 19 (ii) of the Rules. For all purposes the entire sub-rule has to be taken together. The last sentence of Rule 19 (ii) clearly states that the persons who are awarded out of turn promotion for exceptional gallantry and devotion to duty etc. for the purposes of seniority such promotees shall be placed at the bottom of the promotion list drawn up for that year. (Emphasis added). Therefore, the arguments advanced by the learned counsel for the respondents to the contrary are

totally irrelevant. Rule 19 of the Rules which deals with adhoc promotion in general, cover three distinct categories. Rule 19(ii) relates to ad hoc promotion orders by the Commissioner of Police when there are no approved names on promotion lists, and vacancies exist. Rule 19(ii) relates to grant of out of turn promotion ordered to encourage outstanding sportsmen, marksmen, and those who have shown exceptional gallantry and devotion to duty and Rule 19(iii) deals with ad hoc promotion for being posted in Police Training School and the Recruits Training Centre. All these sub-rules should be read harmoniously and one cannot be cited against the applicant so as to negate its effect as the respondents have stood to do. The applicant having been promoted in terms of Rule 19(ii) there was no reason why his request for placement at the bottom of the seniority list in the year in 1988 as Sub Inspector and in 1992 as Inspector could have been rejected, as the same was clearly covered by the said sub-rule. The impugned order rejecting the representation has no sanction in law, the same has to be quashed and set aside.

6. In the result, the application succeeds and is allowed. The impugned order dated 19.2.2001 is quashed and set aside. The respondents are directed to treat the applicant as having been placed at the bottom of the seniority list of Sub Inspectors in 1988 and of Inspectors in 1992, the years when he got promotions out of turn to the two grades. This shall also result in the grant of all consequential benefits to the applicant, as admissible to him under law. Necessary orders in this regard shall be issued within three months from the date of receipt of a copy of this order. No costs.

(Govindan S. Tampi)
Member (A)
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Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman(J)