

## CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2010 of 2001New Delhi, this the 6<sup>th</sup> day of May, 2002HON'BLE MR. V.K. MAJOTRA, MEMBER (A)  
HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)S.I. Ashok Singh D-2021  
S/o Sh. Mohinder Singh  
R/o H.No. 437, Khera Gardhi,  
Delhi.

APPLICANTS

(By Advocate: Shri Raj Singh)

Versus

1. Union of India  
Through Secretary,  
Ministry of Home Affairs,  
Government of India,  
New Delhi.2. Lieutenant Governor  
Raj Niwas, Delhi.3. Government of NCT of Delhi  
Through its Chief Secretary,  
Players Buildings, New Delhi.4. Commissioner of Police,  
Delhi Police, PHQ,  
I.P. Estate, New Delhi.

RESPONDENTS

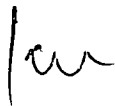
(By Advocate: Shri Harvir Singh)

ORDERBy Hon'ble Mr. Kuldip Singh, Member (Judl)

The applicant who is working as Sub Inspector in Delhi Police has filed this OA seeking the following reliefs:-

(i) That the OA be accepted.

(ii) That impugned adverse report for the period 8.10.1992 to 31.3.93 given to the applicant, order dated 28.12.1993 passed on his representation by the Additional C.P. Delhi and order passed by Government of NCT of Delhi dated 16.7.2001 be declared arbitrary,



illegal and against the rules and without any basis and consequently be quashed/set aside.

(iii) That respondents be directed to reconsider the name of the applicant for inclusion in List 'F' (Executive) Delhi Police by a review DPC w.e.f. 18.8.94 the date on which the name of his immediate junior was included in list 'F' (Ex).

(iv) That the respondents be further directed to promote the applicant from the date his immediate junior was promoted with all consequential benefits.

(v) That Circular Order NO.39225-325/CB-V dated 23.9.1992 be declared illegal, contrary to instruction and rules and be quashed.

2. The case of the applicant is that he had joined Delhi Police as a Sub Inspector (Executive) after selection through SSC w.e.f. 5.12.1983 and throughout he had been graded as good officer and he was assessed as 'B', 'B+', 'A' (Outstanding) and 'Very Good' except for the period 8.10.1992 to 31.3.1993 when he was assessed below average. He has also been given various rewards.

3. The applicant further submitted that he has reliably learnt that on 7.10.1992 a new ACP had taken over the charge of Crime and Railways who gave adverse report to the applicant for the period 8.10.1992 to 31.3.1993 which is without any basis as the same officer in the next year has graded him as 'good' in all

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individual columns but ultimately has graded him as 'average' because there was no column of good grading in the CR forms (Annexure A-11) and it has been held by the Hon'ble Tribunal in OA No.481/1997 that the average seems to be equivalent to 'good'. Against the adverse remarks the applicant had also made a representation but his representation has been rejected.

4. The applicant further submitted that since a DPC was constituted to fill up newly created post of Inspectors and officers having 3 years good or above reports for the last 5 years, were recommended in general category and the total record of SI had been taken into account paying special attention to the nature and number of punishments received during the entire service and despite the fact that as the applicant had meritorious service, his name did not found place in the list 'f' (Executive) declared on 12.8.94 whereas his immediate junior was included in the list.

5. The counsel for the applicant further submitted that the officers whose names are borne on secret list have also been granted promotion. The applicant has neither been punished during his entire service till date nor his name is borne on the secret list of doubtful integrity. DPC did not recommend him, so he claims that he is entitled for promotion.

6. The respondents are contesting the OA who in their reply submitted that the applicant was given adverse report for the period 8.10.1992 to 31.3.1993 as he did not report on important development in case FIR

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No.222/92 P.S. Pahar Ganj which was being investigated by him and was supervised by the Reporting Officer and this case related to a notorious coloniser who duped the buyers of plots in her non-existing colony. His representation against the ACR was dealt with at the appropriate level and no ground was found to be sustainable and it is because of this adverse remarks, the applicant could not be promoted.

7. We have heard the learned counsel for the parties and gone through the records of the case.

8. We have also seen the DPC record as well the record pertaining to the representation made by the applicant against his adverse remarks.

9. As regards the challenge to the adverse remarks given to him for the period from 8.10.1992 to 31.3.1993 is concerned, the representation against the adverse remarks was to be dealt with at the level of Lt. Governor of Delhi and Delhi Government could not deal with the same whereas the representation has been rejected by Delhi Government so his representation has not been dealt by the competent authority as such the same is liable to be quashed as it had been dealt by an incompetent authority.


10. As far this contention of the applicant is concerned, we have gone through the record submitted by the respondents and we find that the representation submitted by the applicant had been dealt at the level of Lt. Governor of Delhi who is an appropriate authority,



as such applicant cannot have any grievance to this effect that his representation has not been dealt with properly so this contention is rejected.

11. However, as regards his juniors being promoted over and above him are concerned, the applicant submitted that as he has got more than 3 'good' ACRs during his last 5 years of service, so he should also have been promoted. We have also seen the record of the DPC and his ACRs for the relevant 5 years. Though the ACR for the period 8.10.1992 to 31.3.1993 is recorded as 'below average' and the representation against the same has been rejected but the ACR for the next year shows that the reporting officer had assessed the applicant in individual columns as 'good officer' but graded him as 'average officer' in the final assessment. To that extent the applicant has submitted that the proforma of the ACR in the conclusion have the grading only of Outstanding/Very Good/Average/Below Average and it has no column for 'good' and since the ACR shows that in an individual column the reporting officer has assessed him good, so he would have ticked 'good' column had it been provided in the ACR form and for illustration purpose the applicant has also annexed the blank proforma as Annexure A-11 along with the OA.

12. Then the applicant has also annexed a judgment given in OA 401/97 by this very Tribunal wherein it has also been observed that when the individual column assessed the candidate as 'good' then he should be treated as 'good'. The court also observed as under:-




".....Looking into the entries re-produced hereabove by way of illustration, the contention of the petitioner seems to be correct. We would like to record our finding that the record itself indicate that the petitioner should have been rated 'good' but for the absence of such category included at S.No.19 for the purpose of grading. Had there been a category of 'good', the petitioner would have been graded 'good' for all the three years, where his grading has been shown as 'average'; therefore, the 'average' seems to be equivalent to 'good'."

13. This observation given by this Bench earlier in OA 481/97 fully applies to the present facts of the case. On a perusal of the ACR of the relevant year we also find that the reporting officer in individual columns have given 'good' since there was no category of 'good' in the grading list so he should be deemed to have been graded as 'good'. In view of this, we find that the applicant does have three 'good' ACRs out of 5, which were required to be considered by the DPC.

14. Hence, we allow the OA and direct the respondents to hold a review DPC in the light of the observation made above and if the applicant is found to be fit he should be promoted in accordance with the guide-lines adopted by the DPC w.e.f. the date when junior to the applicant was promoted. On promotion, the applicant will also be is also entitled for arrears and back wages. This may be done within a period of three months from the date of receipt of a copy of this order.  
No costs.

  
(KULDIP SINGH)  
MEMBER (JUDL)

  
(V.K. MAJOTRA)  
MEMBER (A)

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