

Central Administrative Tribunal
Principal Bench

(11)

DA-2178/2001

New Delhi this the 13th day of December, 2002

Hon'ble Shri V.K. Majotra, Member (A)
Hon'ble Shri Kuldip Singh, Member (J)

Sri Amar Nath Tyagi,
S/o Late Sri Jaidev Singh,
R/o V-656, Street No.12,
Vijay Park, Maujpur,
Delhi-110053.

-Applicant

(By Advocate: Shri J.P. Singh)

Versus

1. Commissioner of Police,
Delhi Police Head Quarters,
I.P. Estate, New Delhi-110003.
2. Joint Commissioner of Police,
Delhi Police Headquarters,
MSO Building, I.P. Estate,
New Delhi-110003.
3. Deputy Commissioner of Police/HQrs(I),
Police Headquarters, M.S.O. Building,
I.P. Estate, New Delhi-110003.

-Respondents

(By Advocate: Shri Ram Kanwar Dhillon)

O R D E R

Hon'ble Shri V.K. Majotra, Member (A)

The applicant has challenged the following
orders:-

- 1) Annexure-A dated 21.12.98 whereby applicant was communicated order dated 2.12.98 of the respondents bringing his name on Secret List of doubtful integrity w.e.f. 9.9.1997 for a period of three years.
- 2) Order dated 3.5.2001 (Annexure-I) issued by respondents ordering deletion of name of the applicant from the Secret List with effect from 9.9.2000.

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3) Annexure-J, which is promotion list dated 5.9.2000, excluding applicant's name from promotion list E-I(Executive) on the ground that he had been assessed as unfit by the DPC.

2. Learned counsel of the applicant stated that the criminal case against the applicant on the basis of which his name was brought in the Secret List of doubtful integrity from 9.9.97 ended in acquittal vide judgment dated 19.9.98 (Annexure-B). The applicant was reinstated in the service on 26.2.1999 (Annexure-C). He submitted a detailed representation on 4.1.99 followed by further representations that his name should be removed from Secret List of doubtful integrity retrospectively. However, his name was removed from the Secret List only on 9.9.2000 after completion of three years period. Learned counsel stated that whereas the selection list for the post of E-I (Exe.) was finalised and circulated on 5.9.2000, applicant's name was not considered in that despite his acquittal from criminal charges. Applicant has sought for the following reliefs:-

- i) Set aside and quash the impugned order No. inflicting the penalty of non deletion the name of applicant from secret list of doubtful integrity right after the date of order passed by the DCP (Security) after going through the merit of the judgment of the court of Shri Dinesh Dayal and also through personal hearing of applicant in OR, being void ab-initio and badly vitiated.
- ii) That it may be declared that applicant is to be promoted in the rank of E-I (Exe) right



after the date of the order of acquittal from all the charges levelled against him. All consequential benefits may be allowed to the applicant.

iii) Any other order/directions/reliefs may be passed in favour of applicant which may be deemed fit just and proper under the facts and circumstances of the case".

3. Learned counsel of the applicant submitted that when the applicant had been acquitted of the criminal charges against him vide court's orders dated 19.9.98 (Annexure-B) applicant's name should have been removed from the Secret List of doubtful integrity immediately thereafter w.e.f. 9.9.97 itself and the DPCs for admission to promotion list E-I should have been immediately reviewed and consequential benefits granted to him. Learned counsel of the respondents stated that applicant's name was considered for admission to promotion list E-I (Exe) on 16.1.97 and also in the subsequent DPCs held on 16.11.97 (Review), 2.12.98 and 1.9.2000 but the DPCs held on 16.11.97 (review) and 2.12.98 respectively had also kept their decision in respect of the applicant in sealed covers due to pendency of the criminal case against the applicant and the DPCs held on 1.9.2000 found him unfit for admission to promotion list E-I(Exe) due to non achievement of the bench mark. Sealed covers relating to DPCs held on 16.1.97, 16.11.97 and 2.12.98 were opened on applicant's acquittal in the criminal case but the applicant was found graded as unfit in the above mentioned three DPCs. He further stated that since the criminal case against the applicant ended in acquittal, material facts placed before the DPCs which met on 16.1.97, 16.11.97 and 2.12.98 had changed and thus, applicant's name was required to be considered by a review DPC for admission to promotion list

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E-I (Exe) w.e.f. 16.1.97 and also on dates of the subsequent DPCs. Accordingly, a review DPC was held on 25.9.2001 after evaluation of applicant's service record and ACRs for the preceding 5 years, the review DPC graded him fit for admission of his name to promotion list E-I (Exe) w.e.f. 16.1.97. As such applicant's name has been admitted to promotion list E-I (Exe) w.e.f. 16.1.97 and his seniority has been placed at appropriate place vide PHQ's Notification dated 3.10.2001. Learned counsel further stated that applicant would be considered for promotion to the rank of SI(Exe) under the rules only after completion of the training in the Upper School Course.

4. Respondents have not satisfactorily explained why applicant's name could not be considered before 25.9.2001 when he had been acquitted in the criminal case in December 1998 itself. Applicant retired on 31.12.2001. If respondents had considered the applicant within a reasonable period of applicant's acquittal in the criminal case, he would have completed training in the Upper School Course prior to his retirement and also enjoyed the benefits of his promotion to the rank of SI(Exe). Respondents have certainly denied justice to applicant by not holding the review DPC immediately after December 1998 and thereby he has been denied the benefit of training as well as promotion to the rank of SI(Exe).

5. In the rejoinder on behalf of the applicant, it has been stated that one Shri Harbir Singh, S.I. No. 699 marked at Sl No. 17 in the list dated 12.12.97 was

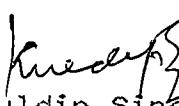
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promoted to the rank of SI without completion of Upper School Training Course. Respondents have not denied this.

6. When the respondents have ultimately considered applicant fit for admission to promotion list "E" (Exe) w.e.f. 16.1.1997, they themselves are to be blamed for not convening a review DPC earlier than 25.9.2001 so as to enable applicant to undergo the requisite training before actual promotion. Applicant has certainly been more sinned against than sinning. Here is a case where justice demands that applicant must be compensated for the fault of the respondents in not taking expedient action for not re-considering his case for promotion immediately after conclusion of criminal proceedings against him.

7. Having regard to the facts and circumstances of the case, Annexure-A dated 21.12.98 is quashed and set aside. Annexure-I dated 3.5.2001 is also quashed and set aside and applicant's name is deemed to have been removed from Secret List of persons of doubtful integrity w.e.f. 9.9.97 itself. Respondents are further directed to exempt the applicant from requirement of undergoing Upper School Training for the rank of E-I(Exe) right after the date of the order of acquittal in the criminal case ^{and grant him} ~~with~~ consequential benefits.

8. OA is allowed in the above terms. No costs.


(Kuldip Singh)
Member (J)


(V.K. Majotra)
Member (A)

cc.