

Central Administrative Tribunal, Principal Bench

Original Application No. 487 of 2001

New Delhi, this the 6th day of May, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. Govindan S. Tampi, Member (A)

1. Ashok Kumar Kaushik
S/o Shri Ram Kumar Kaushik,
R/o Village Ranholla
PO Nangloi, Delhi-41.
2. Vinod Kumar
S/o Shri Om Prakash
R/o House No. 36,
V&PO Maghra Dabhas, Delhi-81
3. Surender Kumar Malik,
S/o Shri R.K. Malik,
R/o A4/35, Sector 15,
Rohini, Delhi
4. Sultan Singh
S/o Shri Ram Prasad
R/o C-477, Gali No. 24,
Bhajanpura, Delhi
5. Satish Rana
Assistant Sub Inspector
Transport Department,
5/9 Underhill Road,
Delhi-54

.... Applicants

(By Advocate: Shri Naresh Kaushik)

Versus

1. Govt. of N.C.T. of Delhi
Through Chief Secretary,
5 Sham Nath Marg
Delhi-54
2. The Principal Secretary cum Commissioner
Transport, Transport Department
5/9 Underhill Road,
Delhi-54

.... Respondents

(By Advocate: Shri George Paracken)

O R D E R

By Justice V.S. Aggarwal, Chairman

Applicants had selected and appointed as Head Constables in the pay scale of 825-1200 on different dates. It is not in dispute that under the promotion rules, for being promoted to the post of Assistant Sub-Inspector, they

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had to complete five years of regular service in the grade of Head Constable. Applicants contend that large number of persons were promoted before completion of five years service. The said promotion continued under orders of regularisation in respect of 13 such persons. So far as the applicants are concerned, the order was passed on 10.7.2000 regularising their promotion but it has not been given effect from the date on which the applicants became eligible and qualified for regular promotion. They complain that in this process they have been discriminated. By virtue of the present application, they seek a direction to grant regularisation of promotion from the date they had become eligible and qualified for regular promotion.

2. The application has been contested. The respondents deny that the applicants had not been given promotion. It is admitted that they had been regularised with effect from 10.7.2000 and are getting all the benefits arising therefrom. In the transport department, the mode of recruitment of Head Constables is 60% by direct recruitment and 40% by promotion from amongst the Foot Constable of Transport Department. There was no dispute of seniority amongst promotee Head Constables. Therefore, they were promoted on the recommendations of the departmental promotion committee. However there was a dispute of seniority between direct recruit Head Constables which was decided by the Tribunal on 10.4.2000 in O.A.2008/96. After receiving the judgement of this Tribunal, the meeting of the departmental promotion committee was held and eligible officials were regularised.

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In this process, it is contended that there has been no discrimination practised.

3. During the course of submissions, learned counsel for the applicants highlighted that though the applicants have been regularised only with effect from 10.7.2000 but in case of other persons in the same department, the said principle is not being adopted and the benefit of ad-hoc service has also been granted. As pointed out above that explanation has been given by the department that in pursuance of the decision of this Tribunal, the regularisation orders had been passed in the case of other persons. At this stage, suffice to mention that when a particular benefit is given in pursuance of a decision of this Tribunal, it will not amount to discrimination. Otherwise also, even if any act has been done which has not been done correctly, the wrong cannot be perpetuated.

4. Regularisation would normally be effected from the date when the departmental promotion committee meeting takes place and the minutes as such are approved. This is subject to vacancies. If earlier the applicants were working on ad-hoc basis, they cannot claim regularisation from the back date. We are conscious of the fact that in certain decisions, it has been held that when a person is promoted on ad-hoc basis and continues to work for long period, the said ad-hoc period of promotion can be counted for purposes of seniority. But this principle cannot be made applicable in the case of the applicants because they are not claiming seniority against any other persons nor

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such persons have been arrayed as parties. It is pure and simple matter pertaining to regularisation for which it cannot be held that applicants can be regularised from the date they became eligible and qualified for promotion.

5. Resultantly the application being without merit must fail and accordingly is dismissed.

(Govindan S. Tampli)
Member(A)

/dkm/

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(V.S. Aggarwal)
Chairman