

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

10

OA No.848/2001

New Delhi, this 8th day of February, 2002

Hon'ble Shri M.P.Singh, Member(A)  
Hon'ble Shri Shanker Raju, Member(J)

Mohinder Singh Tyagi  
ex-Patwari, Rev. Deptt.  
Govt. of NCT of Delhi .. Applicant  
(By Shri S.Bisaria, Advocate)

versus

Govt. of NCT of Delhi, through

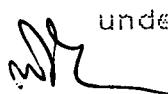
1. Chief Secretary  
5, Shamnath Marg, Delhi-54  
2. Revenue-cum-Development  
Commissioner  
9/11, Under Hill Road, Delhi-54  
3. Dy. Commissioner (North-West)  
Tis Hazari Courts  
Kanjhawla, Delhi .. Respondents

ORDER

By Shri M.P. Singh, Member(A)

This OA has been filed on 3.4.2001 by the applicant, who retired from service as Patwari on 30.4.1997, praying reliefs by seeking directions to the respondents to promote him to the post of Kanoongo from the date his immediate junior Shri Ajit Singh was so promoted and grant him all consequential benefits, including retiral benefits.

2. Despite several opportunities having been given to the respondents, none appeared on their behalf nor counter reply has been filed by them. On 14.9.2001, respondents were given last opportunity to file counter, failing which their right to file reply shall stand forfeited. On 29.10.2001, when the case came up for hearing, the Tribunal in its order has recorded as under:



"It appears that no reply has been filed till date as the same has not been placed on record. In view of Tribunal's previous order dated 14.9.2001, it is presumed that respondents do not wish to file any reply and accordingly pleadings shall be treated as complete."

Thereafter also none appeared on behalf of the respondents. We therefore proceed to dispose of this case based on material on record.

3. Heard Shri S. Bisaria, learned counsel for the applicant.

4. Brief facts of the case are that the applicant was appointed to the post of Patwari in the office of Revenue-cum-Development Commissioner, Delhi Admn. on 14.11.62. He was promoted to the post of Kanoongo with effect from March, 1981. But during the course of survey of land in Village Sirsapur he was involved in a land dispute and was placed under suspension and reverted to the post of Patwari for a period of 3 years with effect from 6.4.83. He was again reported to have been promoted to the post of Kanoongo in 1986 but due to his alleged involvement in some criminal offence, he was placed under suspension vide order dated 10.3.86. This suspension was revoked on 1.6.88. But he was not promoted to the post of Kanoongo. In October, 1989, applicant made a complaint against the erring officers of misappropriation of government land. He was again placed under suspension vide order dated 16.10.89. This suspension was revoked on 31.3.95. Respondents imposed a penalty of 'censure' on the applicant. However the penalty of 'censure' was quashed by the respondents vide

*3*

order dated 26.2.99 and the period of suspension from 16.10.89 to 1.6.90 was also treated as the period spent on duty and the applicant became entitled for full pay and allowances for the suspension period in terms of the provisions of FR 54(B). Thereafter vide order dated 18.12.1998, the entire period of suspension from 24.10.91 to 29.11.91 and 23.9.92 to 31.3.95 was regularised as the period spent on duty for all purposes.

5. According to the applicant, he was considered and approved for promotion by the DPC in its meeting held in 1988-89 and the minutes were kept in a sealed cover as departmental proceedings had already been initiated against him. Now when the Hon'ble Court of Smt. Ravinder Kaur, Metropolitan Magistrate has exonerated him of the criminal offence and the criminal case has also been withdrawn by the respondents vide order dated 12.12.2000, the applicant is legally entitled to get promotion to the post of Kanoongo with retrospective effect when his immediate junior Shri Ajit Singh was so promoted. Applicant has submitted several representations to the respondents but he has not been promoted by the respondents and hence he has filed this OA seeking the aforesaid reliefs.

6. The question for consideration before us is whether the applicant, who is stated to have been considered by the DPC for the post of Kanoongo in the DPC held in 1988-89, is entitled for promotion despite his involvement in criminal cases. We find that the applicant was placed under suspension on various occasions as he was involved in some criminal offence



but the suspension periods were later on revoked. He has also been exonerated of the criminal offence by the court of M.M. (supra). As per the statement of the applicant, he was considered for promotion by the DPC held in 1988-89 but the result was kept in a sealed cover as per DPC guidelines.

7. Since the applicant has been exonerated of the criminal charge pending against him, various periods of suspension have been regularised and treated as spent on duty for all purposes and that the penalty of censure has been quashed by the respondents, we are of the considered view that ends of justice would be duly met if we direct the respondents to open the sealed cover of the DPC, stated to have been held in 1988-89, and if the applicant has been recommended for promotion, he may be given promotion from the date his immediate junior Shri Ajit Singh was so promoted to the post of Kanoongo and grant him all consequential benefits, including retiral benefits, as per law, rules and instructions on the subject. We do so accordingly. This process shall be completed within a period of three months from the date of receipt of a copy of this order.

8. OA is disposed of in the above terms. No costs.

S. Raju

(Shanker Raju)  
Member (J)

M.P. Singh

Member (A)

/gtv/