

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

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CP 109/2003 in OA 1133/2001

New Delhi, this the 12th day of November, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)  
Hon'ble S.A.Singh, Member (A)

Insp. Prithvi Singh  
No.D-1-1055  
N-1/2, Police Station Quarter  
Model Town, Delhi - 110 009.

...Petitioner

(By Advocate Sh. Arun Bhardwaj)

V E R S U S

1. Sh. N.J.Thomas  
Under Secretary  
Govt. of India  
Ministry of Home Affairs  
North Block, New Delhi.
2. Sh. R.S.Gupta  
Commissioner of Police  
Police Headquarters I.P.Estate  
New Delhi.
3. Sh. Sewa Das  
Addl. Commissioner of Police (Estt)  
PHQ, I.P.Estate, New Delhi.~
4. Sh. K.C.Diwadi  
Deputy Commissioner of Police  
Head Quarters (Estt)  
PHQ, I.P.Estate, New Delhi.~

...Respondents

(By Advocate Sh. Ajesh Luthra and  
Sh. R.N.Singh, proxy for Sh. R.V.Sinha)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, VC (J)

We have heard the lengthy arguments of the learned counsel for the parties, particularly Sh. Arun Bhardwaj, learned counsel for the petitioner who has submitted that there has been wilful and contumacious disobedience of Tribunal's order dated 19-11-2001 in OA 1133/2001. This has equally been stoutly denied by Sh. Ajesh Luthra, learned counsel. Both learned counsel have read and re-read the provisions of Rule 17 (i) and Rule 19 (ii) of Delhi Police (Promotion and Confirmation) Rules, 1980

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(hereinafter <sup>referred to as</sup> ~~called~~ <sup>the</sup> as Rules) which were also considered by the Tribunal in the aforesaid order in which one of us [Smt. Lakshmi Swaminathan, VC (J)] was also a Member. Para 6 of Tribunal's order reads as follows :-

"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."

2. Much arguments have taken place among the learned counsel as to whether the order No.34904 dated 1-9-92 issued by the respondents, i.e., admission of names to promotion list 'F' (Ex.) is the seniority list, promotion list or the eligibility list in terms of the aforesaid directions of the Tribunal.

3. Admittedly after the contempt petition was filed by the petitioner on 20-2-2003 with regard to the Integrated inter se seniority list of Inspectors in Delhi Police etc. issued by the respondents on 25-7-2002, where the applicant had been shown at Sl. No. 1026, the respondents have revised that seniority list. They have issued a subsequent order dated 15-7-2003, placing the applicant's name at sl. No.501-A of the seniority list issued vide letter dated 15-7-2003 w.e.f. 1-1-1999. Sh. Arun Bhardwaj, learned counsel for the petitioner, however, submits that in terms of provisions of Rule 19 (ii) of the Rules, since there was no training to be imparted to the applicant on his "out of turn" promotion as

Inspector, he has to be treated as regularly appointed to that post w.e.f. 28-10-1992. Learned counsel for the petitioner has submitted that four officers who had earned "out of turn" promotions, including the applicant, have been directed to be placed below Sh. Rajbir Singh whose name appears at Sl. No.54 in the aforesaid list dated 1-9-92. Learned counsel for the petitioner has contended that one Sh. Sandeep Bayala has been placed at Sl. No.501 who had earned out of turn promotion w.e.f. 12-11-92, whereas the applicant had earned "out of turn" promotion w.e.f. 28-10-92 but at the same time, the respondents have wrongly placed Sh. Sandeep Bayala above the applicant. This has been explained by Sh. Ajesh Luthra, learned counsel that, this has been correctly done as the inter se seniority of the concerned out of turn promotees to the post of Inspectors has to be kept in view, in accordance with the rules.

4. On the other hand Sh. Arun Bhardwaj, learned counsel for the petitioner has submitted that even if the applicant was to be placed at the bottom of the list of Inspectors who had all earned out of turn promotion in the year 1992, definitely the applicant cannot be penalised for earning the "out of turn" promotion earlier to the other person i.e. Sh. Sandeep Bayala based on seniority in the feeder category. While we see some merit in the submissions made by the learned counsel for the petitioner, keeping in view that this is a Contempt Petition<sup>and</sup> at the same time, keeping in view the catena of judgements of the Hon'ble Supreme Court in the matter of contempt, we refrain from giving any further directions in the matter as it will be beyond the

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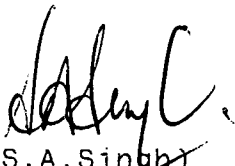
jurisdiction of this petition. No doubt, the respondents have taken steps to implement the Tribunal's order dated 19-11-2001 in the manner they have understood the Rules, which cannot be faulted, nor we can come to the conclusion at this stage that they have wilfully or contumaciously disobeyed the Tribunal's order, to warrant taking further action against them under the provisions of Section 17 of the Administrative Tribunals Act, 1985 read with the provisions of Contempt of Courts Act, 1971. It is also relevant to note that in the aforesaid order of the Tribunal dated 19-11-2001, an observation has been made i.e. Rule 17 (i) and Rule 19 (ii) of the Rules have to be read harmoniously. In this regard, we also see force in the submissions made by Sh. Ajesh Luthra, learned counsel for the respondents that the petitioner cannot raise another moot point in the Contempt Petition, with regard to one or more interpretations of a particular statutory provisions i.e. the Delhi Police (Promotion & Confirmation) Rules, 1980. It is also relevant to note that this aspect of the Rules has also not been dealt with in the previous order of the Tribunal and, therefore, we are unable to agree with the contentions of the learned counsel for the petitioner that the respondents have wilfully or contumaciously disobeyed the Tribunal's order. As very diligently explained by Sh. Ajesh Luthra, learned counsel, ~~that~~<sup>as per</sup> there was absolutely no intention on the part of the respondents to disobey the Tribunal's orders, <sup>as per</sup> the respondents feel that they are indeed implementing the Tribunal's orders, also in accordance with the Rules. Sh. Arun Bhardwaj, learned counsel contended that the

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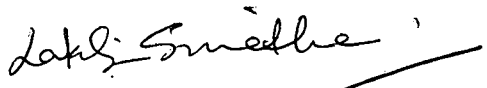
petitioner should be placed either at Sl. No. 446A or 442A of the Integrated seniority list of Inspectors as on 1-1-98 issued by the respondents on 25-7-2002.

5. Keeping in view the judgement of the Hon'ble Supreme Court in J.S.Parihar v. Ganpat Duggar & Ors. (1996 SCC (L&S) 1422) and subsequent judgements of the Hon'ble Supreme Court, we are, therefore, of the view that there is no justification to continue with this Contempt Petition but at the same time liberty should be given to the petitioner, if he is still aggrieved, to proceed in the matter as advised, in accordance with law.

6. In view of what has been stated above, CP 109/2003 is dismissed. Notices to the alleged contemnors are discharged.

  
(S.A. Singh)  
Member (A)

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(Smt. Lakshmi Swaminathan)  
Vice-Chairman (J)