

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 161 of 1999
M.A. No. 157/99

New Delhi, this the 12th day of March, 1999

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN (J)
HON'BLE SHRI N. SAHU, MEMBER (A)

1. Shri Vishamber Dayal,
Assistant Commissioner of Police,
8th Battalion, Delhi Armed Police,
R/o Qr. No. G-6,
Police Station Sarojini Nagar,
New Delhi-110023.
2. Inspector Ishwar Singh
No. D-1/987, Delhi Police,
S/o Shri Jagan Singh
R/o H.No.A-175, Old Gurgaon Road,
Nangal Dairy, New Delhi-37.
3. Inspector Rajbir Singh
No. D-1/680,
IGI Airport,
S/o Shri Shadi Ram
R/o H.No.F-601, Main IGI Airport Road,
Palam Ext., New Delhi-45.
4. Constable Ram Niwas, No. 3081/T,
S/o Shri Vishambhar Dayal,
R/o Police Station Sarojini Nagar,
New Delhi-110023.
5. Constable Bhoop Singh,
No. 8092/7th Bn., DAP
Police Training School,
Malviya Nagar, New Delhi.
6. Constable Prahlad Singh
No. 670/RP, Delhi Police,
Police Lines,
Rashtrapati Bhavan
New Delhi.
7. Constable Balwant Singh
No. 1079/SW, Delhi Police,
Police Station Dwarka,
(South West District)
New Delhi.
8. A.S.I. Khushi Ram
No. 2822/D, Delhi Police
58-I, Police Colony
Model Town,
New Delhi.
9. ASI Roop Chand No. 2218/D
S/o late Shri Chunni Lal,
R/o H. 491-A, Gali No. 17,
Sad Nagar, Palam Colony,
New Delhi. Applicants
(By Advocate: Smt. Avnish Ahlawat)

Versus

1. Union of India through
Government of National Capital
Territory of Delhi, through
Lt. Governor of Delhi
Raj Niwas, Delhi.

2. Commissiner of Police
Police Headquarters,
M.S.O. Building,
I.P. Estate,
New Delhi-110002.

2A. Union of India
Ministry of Social Justice and
Empowerment(Govt. of India)
Through Secretary,
Sastri Bhawan,
New Delhi.

3. Sub-Divisional Officer(C)
Jhajjar,
Haryana.

4. Ist Class Magistrate,
Jhunjhunu,
Rajasthan

5. Sub Divisional Officer(C)
Narnaul, Distt. Mahendergarh,
Haryana

6. Executive Magistrate,
Khetri, Distt. Jhunjhunu,
Rajasthan.

7. Sub Divisional Officer(C)
Gurgaon, Respondents
Haryana.

(By Advocates: Shri Arun Bhardwaj, for respondents 1&2
and Shri K.C.D.Gangwani, for respondent 2A).

O R D E R (ORAL)

By Reddy, J.-

Heard Smt. Avnish Ahlawat, learned counsel for
the applicant, Shri Arun Bhardwaj, learned counsel for
respondents 1 and 2 and Shri K.C.D.Gangwani, learned
counsel for respondent 2A.

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2. This O.A. is filed by nine applicants (3) representing the entire Bawaria community in Delhi who are posted in Delhi Police from 1955 onwards, apprehending a threat from the respondents of reversion/termination from service on the ground that they were treated as ST community while, in fact, they were to be enlisted as S.C. Admittedly, no order has been passed or any action is sought to be taken so far against the applicants. It is however, the serious apprehension of the applicants that secret instructions have been given to the officers to take action against the police officers belonging to Bawaria community.

3. In reply to the interim relief, it has been stated in the reply filed as follows:-

"After examine the matter, it has been decided that the service records in respect of police personnel serving in Delhi Police belong to 'BAWARIA' case may be scrutinized by the concerned DCsP/Distts/Units and if any one is found having gained undue benefit by treating him as 'ST' category in his appointment/promotion, suitable action be taken against him under the rule by issuing Show Cause Notice/by holding regular Departmental Enquiry by the authority concerned vide this Hdqrs. U.O.No.F.XIII/12(6)/97(P-II)/701-40/ P.Br.(AC-III) dated 8.1.99 and the final decision in the matter taken by the disciplinary authority only after by giving them full opportunity and now subject to the decision on interim relief by the Hon'ble Central Administrative Tribunal fixed for 8.2.99. Moreover the representation dated 16.1.99 submitted by Sh.Vishamer Dayal A.C.P., has sent to this Hdqrs. by DCP/8th Bn. DAP in order to decide the matter by the competent authority vide his office letter No.2000/HAP-8th Bn. DAP dated 21.1.99 i.e. after the date of filing of O.A. in Hon'ble Central Administrative Tribunal on 18.1.99. The same is under consideration. The O.A. is premature as no adverse action has been taken by the Respondents. There is no impugned order in the O.A. as required U/Sec.19(1) of AT Act, 1985. The

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O.A. has been filed only on the basis of false apprehensions, conjectures and surmises. This O.A. is, thus, not maintainable under the rules of law." (A)

4. It is thus true that the respondents have decided to scrutinise the papers and if anyone was found to have gained undue benefit by treating him as ST category at the time of his appointment/promotion, an action would be taken against such of the officers who have got the said benefit, after giving show-cause notice and holding regular departmental enquiry as per the relevant rules and the final decision would be taken only after giving the said affected persons full opportunity. It is also stated that the representation dated 16.1.99 submitted by one of the applicants has been sent to the competent authority to consider and dispose of the same.

5. In view of the categorical stand taken by the respondents, in its reply and reiterated by the learned counsel in his submissions, we cannot accept that the apprehension of the applicants that they would be either removed or reverted without holding any enquiry, is real. We are, therefore, of the view that this O.A. is premature as it is filed without any order or without any valid apprehension. The O.A. is, therefore, dismissed at the admission stage.

N. SAHU

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MEMBER(A)

V. RAJAGOPALA REDDY

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VICE CHAIRMAN(J)

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