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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1832/99

New Delhi, this the 10th day of April, 2001

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

Shri Rishi Pal Singh, B.No.3123-S/W Distt.
ASI (Driver) Delhi Police
S/o Shri Malkhe Singh
R/o V&P.O. Mahipalpur
New Delhi.

...Applicant.

(By Advocate Shri Rajeshwar Singh)

V E R S U S

1. Commissioner of Police
Delhi Police P.H.Q.
MSO Building, I.P.Estate
New Delhi-110002

2. Add C.P. - HQ-I
Establishment Branch
Delhi Police, Police Head Quarter
M.S.O.Building, I.P.Estate
New Delhi - 110002

...Respondents.

(By Advocate : Shri Vijay Pandita)

O R D E R (ORAL)

By Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)

This is the third application filed by the applicant in the Tribunal. This time the grievance of the applicant is with regard to the rejection of his representation by the respondents for change of cadre from ASI (Driver) to ASI/MT (Operational).

2. The earlier application filed by the applicant was OA No.1106/99, wherein he had challenged his non-confirmation in the grade of Constable. He was confirmed as Constable (Driver) w.e.f. 1-1-95 and promoted as ASI (Driver) in pursuance of the Tribunal's order dated 8-12-98 in OA 55/98 in which one of us {Smt. Lakshmi Swaminathan, was also a Member} Following the Tribunal's order in OA 55/98,

Contd.../Page 2

his name has been admitted to Grade I Driver w.e.f. 21-7-97 and promoted to officiate as ASI (Driver) w.e.f. 8-4-99. Thereafter, the applicant had made a request to the respondents in his letter dated 28-4-99 that he is willing to join as ASI/MT (Operational) as he is also in a position of MT-ITI Certificate as additional qualification.

3. Shri Rajeshwar Singh, learned counsel for the applicant has submitted that in the case of one Shri Ramesh Chander, who was also in the cadre of ASI (Driver), in pursuance of his request for change of cadre from Driver to MT (Operational), as per his request, the respondents had agreed vide their letter dated 16-6-95. Accordingly, ASI (Driver) Shri Ramesh Chander was promoted as ASI/MT (operational) w.e.f. 1-1-89 instead of ASI (Driver).

4. In our previous order dated 27-3-2001, respondents were directed to bring on record the rules and the reasons why ASI Shri Ramesh Chander was allowed change of cadre from ASI (Driver) to ASI/MT (operational) and why this has not been agreed to in the case of the applicant.

5. Shri Vijay Pandita, learned counsel has submitted that the request of Shri Ramesh Chander had been agreed to by the respondents at the relevant time in 1995, taking into account the fact that he had been given gallantry award. He has also submitted that in the light of the Tribunal's order dated 8-12-98 in OA 55/98, the applicant cannot file another application by way of the present OA, Subsequently, praying for

18

change of cadre from ASI (Driver) to ASI/MT (operational). He has also submitted that both these cadres are different and governed by different recruitment rules. He has also pointed out that there are atleast 20 persons who are senior to the applicant in the cadre of ASI (Drivers). He has, therefore, submitted that the applicant, at this stage cannot claim parity with the decision taken by the respondents in respect of Shri Ramesh Chander for change of cadre.

6. We have also heard Shri Rajeshwar Singh, learned counsel in reply to the submissions made by Shri Vijay Pandita, learned counsel.

7. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

8. Taking into account the facts and circumstances applicable to the applicant, we do not find any merit in this application. Even at the time when the applicant filed OA 55/98, he was aware of the fact that Shri Ramesh Chander, ASI (Driver) had been allowed change of cadre by the respondents from the category of Driver to ASI/MT (operational). However, it is clear from a perusal of the reliefs prayed for by the applicant in OA 55/98 and the reliefs granted that he had sought and was allowed consideration for promotion to the post of Grade-I of ASI (Driver) in accordance with the Rules, for which a direction was also given to the respondents to hold review DPC. It is also relevant to note that the respondents had

13

already agreed to the request of Shri Ramesh Chander for change of cadre as far back as 16-6-95. Therefore, it cannot be held that the applicant was not aware of the relevant facts at the time when he filed OA 55/98. In this view of the matter, it was open to the applicant to have prayed for the relief that he is now agitating in the application in OA 55/98, if he so desired. This has, however, not been done. In the circumstances, the prayer of the applicant for a direction to the respondents to change his cadre from ASI (Driver) to ASI/MT (operational) at this stage cannot be granted.

9. In the facts and circumstances of the case, we find no good grounds and justification to interfere in the matter or for holding that the impugned decision of the respondents is either illegal or arbitrary. OA fails and is accordingly dismissed. No order as to costs.

(Govindan S. Tampi)
Administrative Member

/vikas/

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