

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.185/99

New Delhi this the 15th day of July, 1999.

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

Asstt. Sub Inspector Yoginder Singh,
S/o Shri Pehlad Singh,
R/o Village Dhindar, Distt. Gaziabad,
Uttar Pradesh.

...Applicant

(By Advocate Shri Shankar Raju)

-Versus-

1. Union of India through its
Secretary, Ministry of Home Affairs,
North Block, New Delhi.

2. Commissioner of Police,
Police Headquarters, I.P. Estate,
M.S.O, Building,
New Delhi.

3. Dy. Commissioner of Police HQ (T),
Police Headquarters, I.P. Estate,
New Delhi.

...Respondents

(By Advocate Sh. Bhaskar Bhardwaj, proxy for
Arun Bhardwaj)

O R D E R

By Reddy. J.-

The applicant, a Head Constable in Delhi Police was promoted to the rank of Assistant Sub Inspector (ASI) on 22.1.87. On certain allegations an FIR was filed against him under Sections 342/365/120 B on 2.3.90 (Annexure A-2). Subsequently, chargesheet was also filed. He was suspended. But, he, however, was reinstated by an order dated 11.2.91. Alongwith the applicant two three other ASIs, co-accused were also issued chargesheet on certain allegations. The grievance of the applicant is that he was not confirmed in the rank of ASI in view of the criminal case pending against him and the investigation going on. He was, however,

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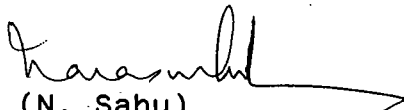
considered for promotion but his name was placed in a sealed cover on account of the pendency of the criminal case. Learned counsel, however, submits that as one Inspector Rati Ram who was also involved as a co-accused alongwith the applicant was given promotion to the rank of Assistant Commissioner of Police, it was urged, there was no reason to discriminate him. Learned counsel for the respondents admits that the co-accused Inspector Rati Ram was promoted though the case was pending against him. But he contends that the applicant is not eligible to be confirmed under the rules. The O.A. is liable to be dismissed on this ground alone. In reply it is stated that the applicant was due to have completed his probation w.e.f. 9.5.89, but the decision was deferred due to pendency of the criminal case against him.

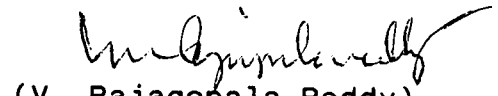
2. The only ground that was urged before us was that as the co-accused have been promoted who are similarly placed, the applicant was also entitled to confirmation and promotion. This contention appears to be misconceived. Under Article 14 of the Constitution, it is true that no person shall be discriminated against under law. It does not, however, mean that a person is entitled to the benefit of a wrong order in his favour even though he was not entitled to ^{any such benefit} ~~it~~ under law. Art. 14 contemplates that one should not be discriminated against under a law which was valid. Obviously, under Rule 18 (iv) of the aforesaid Rules since the applicant is facing criminal proceedings he is not entitled to confirmation. The Rule is very clear and the applicant has, therefore, no case. He, however, has not chosen to rely upon any rule in favour of his case. The co-accused

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who is also facing similar proceedings appears to have been promoted. That may be for all purposes is a wrong order. The applicant is a police officer and he should possess an impeccable character. He is an officer appointed to protect the people from the criminals. When he himself is alleged to be an offender it is wholly unjustified to continue him in service. ~~and~~ We do not want to express any opinion on the merits of the case or his character in this case. But, we only want to emphasize that even an allegation against the police officer should be viewed seriously. In that view, the applicant cannot expect confirmation of his service, particularly when such an act is not permissible under the rules.

3. The O.A. is, therefore, dismissed. In the circumstances no costs.


(N. Sahu)
Member(A)


(V. Rajagopala Reddy)
Vice-Chairman(J)

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