

PRINCIPAL BENCH: NEW DELHI

O.A. No. 186/1999

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New Delhi, this 30th day of August, 1999

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN
HON'BLE MRS. SHANTA SHASTRY, MEMBER(A)

ASI Kulwant Singh, No. 448/D
S/o Shri Sohan Singh
R/o Qtr. No. 4, P.S. Delhi Cantt.
Delhi.

... Applicant

(By Advocate: Shri Ajesh Luthra)

versus

1. Union of India,
Through Secretary
Ministry of Home Affairs
North Block
New Delhi-110001.
 2. The Commissioner of Police
M.S.O. Building
Police Headquarters
I.P. Estate
New Delhi.
 3. The Joint Commissioner of Police
(Intelligence), Police Head Quarters
M.S.O. Building, I.P. Estate
New Delhi.
 4. The Deputy Commissioner of Police
(Special Branch), Police Head Quarters
M.S.O. Building, I.P. Estate
New Delhi.
 5. The Deputy Commissioner of Police
(Head Quarters-III)
Police Headquarters
M.S.O. Building
I.P. Estate
New Delhi.
- ... Respondents

(By Advocate: Shri Bhaskar Bhardwaj, proxy
for Shri Arun Bhardwaj)

ORDER(Oral)

Reddy, J.

Heard the learned counsel for the applicant.

The applicant is Assistant Sub Inspector (ASI) in
Delhi Police, whose name was placed in the Secret
List on 2.4.1998 on the sole ground that charges
were levelled and enquiry was pending against him.

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It is the case of the applicant that after the enquiry was conducted, the applicant was exonerated of all the charges ~~against him~~ by an order dated 25.6.98. The ASIs were considered for promotion, in the meeting held by the DPC during September/December 1998. The applicant was found unfit on the ground that his name was placed under the Secret List and hence he was not promoted to the post of ASI. It is the contention of the learned counsel for the applicant that when once the applicant was exonerated of the charges, the applicant should have been considered fit for promotion as if he was not placed in Secret List from inception.

2. In the counter affidavit it is stated that the name of the applicant, though considered for promotion to be placed in list E-I (Ex.) along with others by the DPC held on 2.12.1998, the applicant was found unfit by order dated 10.12.1998 for promotion due to the existence of his name in the Secret List which was a bar for promotion as per para-6(iv) of Standing Order No.265.

3. It is not under dispute that the applicant was placed under the Secret List by order dated 28.5.1998 on the ground that charges were levelled against him and the enquiry was pending. It is also not in dispute that the applicant had been fully exonerated after the enquiry by an order dated 25.6.1998. When once he is exonerated of all the charges, the applicant should be considered as

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if his name was not placed in the Seniority List from inception i.e., with effect from 2.4.1998. It is drawn to our notice that similar matter has been allowed by the Tribunal in OA.827/98 decided on 18.8.1998. The Bench has clearly held that once the officer was exonerated, the necessary consequence would be to remove the name of the officer from the Secret List from inception i.e. from the date when his name came to be included in the Secret List. The Bench has also considered the Standing Order No.265.

4. In view of the above, the OA is allowed and we set aside the impugned order dated 28.5.1998 by which the applicant's name was placed in the Secret List and also set aside the order dated 10.12.1998 in so far as the applicant is concerned holding the applicant as unfit for promotion. We direct the respondents to constitute a Review DPC to consider the case of the applicant for inclusion of his name at the appropriate place in Promotion List E-I (Ex.). This exercise should be done within a period of six months from the date of receipt of a copy of this order.

No costs.

Shanta Shastry

(Mrs. Shanta Shastry)
Member(A)

V. Rajagopala Reddy

(V. Rajagopala Reddy)
Vice Chairman(J)

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