

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(10)

OA NO. 559/99

NEW DELHI THIS THE 11th DAY OF NOVEMBER, 1999

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

Surjit Singh Gill
Son of Shri Makhan Singh Gill
R/o HL 9A L Block,
Anand Vihar, Jail Road,
Hari Nagar, New Delhi.

Applicant

(By Advocate: Sh. Ashish Kalia)

Vs.

1. Government of N.C.T. of Delhi
Through its Chief Secretary,
5 Sham Nath Marg,
Delhi-110 054.
2. The Addl. Commissioner of Police (Admn.)
Police Headquarters,
IP Estate,
New Delhi.
3. Deputy Commissioner of Police,
(PCR) West Zone,
Vikas Puri, New Delhi.
4. Deputy Commissioner of Police (H.Qrs.)
I.P. Estate, Police Headquarters,
New Delhi. Respondents

(By Advocate: Sh. Rajinder Pandita)

ORDER (ORAL)

BY REDDY. J.

Heard counsel for the applicant and the respondents.

2. The question that arises for our consideration in this case is whether the applicant's name was wrongly rejected by the respondents from inclusion in the E-1 list, for promoting him to the post of Sub-Inspector.

3. It is the case of the applicant who is an ASI that he has unblemished service record and no disciplinary case

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was initiated against him and that the name of the applicant does not stand in the secret list and no major or minor penalty has been inflicted upon him. In the list dated 3.12.98 for admitting the names of the officers for promotion, namely, E-1 list, the applicant though was considered by DPC, was not selected. The applicant was informed that he could not make the grade up to the desired level.

4. It is contended by the learned counsel for the applicant that as per the guidelines issued by the Department to be followed by the Departmental Promotion Committee for making promotion from a lower grade to higher grade, officers having three "Good" or above gradation and without any "Below Average or Adverse" reports will empanelled. Since the applicant possesses the minimum required qualifying service, in the lower rank viz. 5 years, and as he was having excellent record of service, the applicant ought to have been enlisted for promotion.

5. In the counter affidavit, the respondents averred that during the period of service of the applicant his conduct was not unblemished. He was imposed the punishment of censure on 3.2.93 for clearing a passenger, who was having pistol in his hand bag. He was again censured on 8.8.95 for not taking any action against a car driver, who ran away from the spot after accident. It was stated that candidate with any major or minor punishment in the preceding 5 years on charges of corruption, moral turpitude and gross dereliction of duty to protect government property or major punishment

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within 2 years on charges or administrative lapses, from the date of consideration are not empanelled. The applicant was evaluated by the DPC and after evaluating the service records and ACRs of the last preceding 5 years the DPC graded him unfit because he could not achieve bench mark of 3 'Good' ACRs. It is therefore contended by the respondents that the applicant was rightly not empanelled. We have given careful consideration of the rival contentions having perused the records.

6. Under Rule 5 of the Delhi Police (Promotion and Confirmation Rules), 1980 promotion to the post of ASI was made by 'selection tempered by seniority'. Efficiency and honesty shall be the main factors governed in selection. In the present case we have perused the ACRs of the applicant for the relevant period, i.e., from 1992 to 1997. It is true that as contended by the learned counsel for the applicant that in the ACRs for the years from 1992 to 1996 against the column 'Gradation' the words 'outstanding', 'very good', 'Average' and 'Below Average' are printed. The word 'Good' is not shown. Only from 1996-97, the word "Good" has been introduced. Hence, the bench mark of 'Good' could not have been the guiding factor for considering the applicant. Hence, it is contended that in the absence of the Gradation 'Good', the 'Average' given to the applicant should be treated as 'Good'. We do not agree. In our opinion the superior officer will give 'Very Good' and not 'Average' if an employee deserved the gradation 'Good'. In some ACRs we have seen 'Good' (hand written). Hence, the applicant did not fulfil the minimum requirement of 3 'Good' reports. Moreover as per Rule 5 of the Delhi Police (Promotion and

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Confirmation) Rules, 1980 the efficiency and honesty of an officer shall be the guiding factors for promotion. The DPC, having considered the service record and the ACRs, did not recommend the applicant for promotion. After going through the ACRs of 1992 to 1997 the record of the applicant cannot be said to be unblemished, particularly in view of the fact the applicant had been censured in the years 1993 and 1995.

7. It is true as contended by the learned counsel for the applicant that the validity of censure given by the respondents will last only for 6 months, even then it cannot be said that the said fact cannot be taken into consideration for promotion.

8. In the circumstances we do not find any merit in this OA. The OA is, therefore, dismissed.

Shanta Shastri
(MRS. SHANTA SHAstry)

Member (A)

V.Rajagopala Reddy
(V.RAJAGOPALA REDDY)

Vice Chairman (J)

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