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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 669 of 1999

New Delhi, this the 21st day of May, 1999

HON'BLE MR. T.N.BHAT, MEMBER (J)
HON'BLE MR. S.P.BISWAS, MEMBER (A)

Mahesh Chander (D-1/481), S/O Late Sh.
Harish Chander, R/O H.N. 4/IV, PS, Ashok
Vihar, New Delhi.

--APPLICANT.

(By Advocate: Sh. Shyam Babu)

Versus

1. Govt. of NCT of Delhi - through its
Chief Secretary, 5 Shammath Marg,
Delhi - 110 054.
2. Commissioner of Police, Delhi,
Police Headquarter, I.P.Estate, New
Delhi.
3. Jt. Commissioner of Police (Admn.),
Police Headquarter, I.P.Estate, New
Delhi.
4. Union of India through its
Secretary, Ministry of Home Affairs,
North Block, New Delhi.

--RESPONDENTS.

(By Advocate:- Sh. Bhaskar Bhardwaj for
Sh. Arun Bhardwaj)

O R D E R

By Mr. S.P.Biswas, Member (A) -

Applicant, Inspector Delhi Police under
Respondent No.2, is aggrieved by Annexure-A order dated
3.6.1998 by which his request for deployment to UN
Mission was considered but could not be acceded to on
"administrative grounds." The impugned letter mentions
that the selection process having been completed and
there being no demand from MHA, the applicant could apply
afresh as and when any such deputation is called for.
The applicant is also aggrieved because of inaction on
the part of the respondents in not issuing appropriate

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clearance/ orders required for the purpose of processing applicant's case for deputation to Bosnia/Herzegovina with reference to respondent's subsequent circular dated 17.11.1998 as at Annexure-0 at page 39 of the Paper Book.

2. For the purpose of appreciating the points urged in this application, we may briefly mention the background facts.

3. In response to respondent's initial circular for deputation of Inspectors to Angola, the applicant formally offered his willingness for the said deputation vide his letter dated 23.3.1997. The applicant's case was duly forwarded to the Headquarters for further necessary action. In forwarding applicant's case, the respondent No.3 indicated that no DE/PE/Criminal case is pending against the applicant. Nor his name exists in the list of persons with "Doubtful Integrity" (D.I. for short). This was the position as on 24.6.1997. Subsequently on 10.9.1997, a departmental proceeding was initiated against the applicant because of lack of latter's supervision and failure to check the arms and ammunitions from the Kot at Vijayaghat leading to loss of two revolvers and one pistol. As a result of this, while sending his willingness for deployment to UN Police Task Force in Bosnia in reference to yet another Circular dated 12.12.1997 (Annexure-F), the applicant in his letter dated 18.12.1997 (Annexure-G) had clearly mentioned that a case of D.E. is pending against him because of the action proposed by Sr.Additional Commissioner of police as per orders dated 10.9.97. The case thus initiated against the applicant was subjected

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to a full fledged joint departmental enquiry conducted at the level of DCP/1st Bn.DAP as Inquiry Officer. The said I.O. concluded his findings "that Inspector Mahesh Sharma was not entrusted with the work of Kot and there are no sufficient grounds to frame a formal charge against the said Inspector in this D.E." The report of the I.O. was duly accepted by the Disciplinary Authority and proceedings initiated vide orders dated 10.9.97 was dropped by Annexure-M dated 4.5.98. It was only because of the aforesaid disciplinary proceedings against the applicant that the respondents had mentioned in their communication dated 17.12.98 (Annexure-Q) that the name of the applicant exists in DI list. However, with the completion of the disciplinary proceedings and exoneration of the applicant in the said proceedings, the respondents issued a communication with the approval of Joint Commissioner of Police (Vig.) indicating that the name of the applicant, has since been removed from the secret list of persons of doubtful integrity w.e.f. 10.9.97. Orders to this effect was issued on 22.3.1999. Thus, the plea of the respondents which could stand in the way of the applicant, can be considered as valid with reference to the applicant's original request/ offer for the UN deputation to Angola only.

4. The applicant is before us now seeking relief against respondent's inaction with reference to his latest request for being considered for deployment in UN Police Task force in Bosnia/Herzegovina with the contingent/ group likely to leave India in June/ July, 1999. And this is with reference to the latest circulars of the respondents dated 4.12.98 (Annexure-O) seeking

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nomination of deployment in UN Police Task Force for Bosnia/ Herzegovina and not for Angola. The applicant offered his candidature vide his written option given on 8.12.1998 (Annexure-P).

5. In the background of the facts and circumstances aforementioned, the respondent's stand that the applicant's case could not be acceded to on "administrative grounds", cannot be accepted. In the face of the developments as at Annexure-M dated 4.5.98, the respondents have faltered in issuing the communication at Annexure-A dated 3.6.98.

6. During the course of the oral arguments, the learned counsel for respondents conceded that the only issue which was standing in the way of applicant's case for foreign deputation was inclusion of his name in "Doubtful Integeratly" list pursuant to D.E. case of 10.9.1997. That proceedings having come to an end and the name of the applicant having been removed from D.I. list as per orders dated 23.3.99, applicant's case for consideration of deployment to Bosnia/Herzegovina cannot be denied.

7. We also find that the applicant's case gets well supported from the decision of this Tribunal in OA 802/96 decided on 15.5.96 wherein an identical case of yet another Inspector of Delhi Police seeking deputation to Bosnia was decided by this Tribunal. The ratio arrived at there is applicable on all force in the present case. We all, including the respondents, are bound by this


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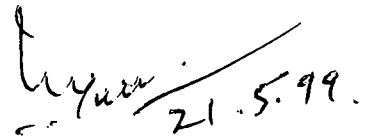
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legal precedent. Nothing would now prevent the respondents from giving the concurrence/ clearance in the matter.

8. In the background of detailed discussions aforesaid, the OA is allowed with the following directions.

- i) The respondents shall consider the applicant's case for deployment to UN Police Task Force in Bosnia/ Herzegovina with the batch scheduled to leave in June/ July, 1999.
- ii) The respondents shall also provide necessary clearance to the applicant forthwith enabling him to take up the assignment for Bosnia/Herzegovina, if considered favourably in terms of our orders at (i) aforementioned.
- iii) Follow up actions in respect of our orders aforesaid shall be complied forthwith.
- iv) There shall be no order as to cost.


(S.P. BISWAS)
MEMBER (A).


21.5.99.
(T.N. BHAT)
MEMBER (J)

/SUNIL/