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R.A. No. 268/99
M.A. No. 2754/99
M.A. No. 2755/99
M.A. No. 2756/99
R.A. No. 26/2000
M.A. No. 120/2000
M.A. No. 121/2000
M.A. No. 122/2000
M.A. No. 236/2000
M.A. No. 259/2000
O.A. No. 528/98

ORDER 10.2.2000.

In the matter of

Nem Dutt Bhardwaj Vs. Union of India & Others.

Present: Shri Shyam Babu for review applicant
Shri M.K. Gupta for respondent (applicant in O.A.)
Shri B.T. Kaul, Mrs. Meera Chibber for other respondents
S/Shri N.S. Mehta & Rajinder Pandita for official respondents

R.A. No. 268/99 and R.A. No. 26/2000
MA No.236/2000 and MA No.259/2000.

In R.A. No. 268/99 Review Applicants S/Shri L.N. Rao and Raj Bir Singh, both ACPs in the Delhi Police seek review of the Tribunal's order dated 27.5.99 in O.A. No. 528/98 N.D. Bhardwaj Vs. Union of India & Others.

2. Similarly in R.A. No. 26/2000 Review Applicants S/Shri P.P. Singh and Ravi Shankar seek review of the aforesaid order dated 27.5.99 in O.A. No. 528/98.

3. Shri N.D. Bhardwaj and Others who are confirmed Inspectors of Delhi Police had filed O.A. No. 528/98 because they were aggrieved by Respondents' failure to convene DPC Proceedings since 1992 for effecting regular promotions to the grade ofACP and

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because Respondents allegedly adopted a pick and choose policy to promote a large number of Inspectors to the rank of Assistant Commissioners of Police on ad hoc and out of turn basis and even by adjusting them wrongly against ex-cadre posts.

4. O.A. No. 528/98 was heard on merits and disposed of by the aforesaid order dated 27.5.99 by which the impugned promotional order dated 10.10.94 (Annexure A-1 Colly.) and other connected promotional orders were quashed and set aside but prospectively w.e.f 1.12.99 because in the facts and circumstances of that case, a vaccum in the administration of law and order could not be created by quashing abruptly the massive ad hoc promotional arrangements retrospectively or from the date of issue of the order. Respondents were directed to convene and complete in a phased manner regular DPCs on yearwise basis, to consider the applicants, all those now working on ad hoc basis as well as other similarly placed officials for regular promotions as ACPs in Grade II of Delhi & Andaman & Nicobar Islands Police Service with all its consequences. Action was to be completed by 30.11.99. It was directed that if the cases of the applicants were considered by the DPC favourably, they would have their seniority counted from the dates their juniors were promoted, but no backwages would be admissible. Any fresh ad hoc promotional orders for ACPs would be issued only with prior approval of authorities competent to do so. Respondents were directed to adhere to the time limit given above.

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5. Aggrieved by the aforesaid order of the Tribunal the four Review Applicants before us approved the Delhi High Court through two separate Writ Petitions numbering CWP-497/99 and CWP-498/99.

6. The above two CWPs were disposed of by the Delhi High Court by its order dated 29.11.99 which reads as follows:

> "Grievance raised by the petitioners is that they werenot a party in the original application before the Central Administrative Tribunal. The impugned order has been passed without impleading them as a party, as a consequent their right has been affected.
>
> We consider it appropriate for the petitioners to approach, at the first instance, Central Administrative Tribunal for their grievance. Counsel for the petitioners states that the order of C.A.T. will be operative from 1.12.99. In view of the development now taking place we extend the period operation of the impugned order for 10 days more in respect of only these two petitioners.
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> With these observations the petition stands disposed. File of the Tribunal be sent back forthwith. If not already sent. Case need not be listed on 1.5.2000. Dasti."

7. Meanwhile private Respondents 12 and 13 who were also aggrieved by the aforesaid order dated 27.5.99 filed CWP-4582/99 in the Delhi HighCourt, who after hearing both parties made the following orders on 1.12.99.

1.12.99: Present: Mr. Gopal Subramaniam, Senior Advocate with Shri Shyam Babu for for petitioners
Mr. HS Pholka, Sr. Advocate with Shri V. Rawat for respondent No.1
Ms. Avnish Ahlawat for Respondent

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No.2 & 3
Mr. Mukesh Kr. Gupta for Respondents No. 5-46.

CW-4582/99

Rule D.B.

CM-8684/99

Counsel for Respondents 2 and 3 i.e. of NCT of Delhi as well as Union of India state that Lt. Governor of Delhi with confirmation of Central Government created from time to time 29 ex-cadre posts of the ACP for Delhi. Mrs. Avnish Ahlawat for NCT of Delhi will produce the sanction orders of these 29 ex-cadre posts of ACP created in Delhi Police, within two weeks. Mr. H.S. Phoolka, Sr. Counsel appearing for the Union of India states that the Tribunal has already given directions to the respondent to hold the DPC within eight weeks for making regular appointments of ACP in Delhi Police including those persons who were appointed on ad hoc basis. In case these petitioners also fall in the zone of consideration they will be considered for regular appointments. The Tribunal has granted stay of reversion of those ACPs who were appointed on ad hoc basis. These petitioners were appointed out of turn as ACP against the ex-cadre posts on account of their gallantry work. We feel that till the disposal of this writ petition these petitioners who were promoted against ex-cadre post may not be reverted.

Parties are at liberty to apply for early hearing.

8. From the foregoing it is clear that the Tribunals' order dated 27.5.99 in O.A. No. 528/98 is now in seizen of the Delhi High Court.

9. In the light of this subsequent order of Delhi High Court dated 1.12.99 whereby it is itself seized of the order dated 27.5.99, we are of the view

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that it would be judicially improper for us to review that order at this stage. R.A. No. 268/99 and R.A. No. 26/2000 are adjourned.

10. We note that by order dated 30.11.99 in M.A. No. 2577/99 and M.A. No. 2578/99 in O.A. No. 528/98 Respondents had been given further time till 31.1.2000 to implement the aforesaid order dated 27.5.99 and it was made clear that reversions would be operative only w.e.f. 31.1.2000. By subsequent order Respondents have been directed to maintain status quo.

11- Meanwhile Respondents 1, 2 & 3 have filed M.A. No. 236/2000 No. 259/2000 Respondents 1, 2 & 3 have sought for further extension of time to implement the aforesaid order dated 27.5.99. It has been urged that the Tribunal by its order dated 30.11.99 in O.A. No. 1454/98 Shri Satya Prakash Kaushik & Others Vs. Commissioner of Police, Delhi & Others has quashed the Joint Seniority List of Inspectors of Police which forms part of the feeder cadre for promotion to the grade of Assistant Commissioner of Police, and respondents are therefore not presently in a position to convene DPC meetings for promotion to ACPs grade. It has been stated that a review petition has been filed for review of the aforesaid order dated 30.11.99 which is still pending, and a prayer has been made to allow Respondents to convene and complete the process of holding DPC only after that review is decided, and meanwhile to allow Respondents to retain officers holding posts of ACPs or

equivalent in Government of NCT of Delhi on ad hoc basis, till the Notification appointing the officers to DANIP Service is issued.

12. In view of the facts and circumstances noticed above, we direct as follows:

(i) As the Tribunal's order dated 27.5.99 is separately under seizen of the Delhi High Court, R.A. No. 268/99 and R.A. No. 26/2000 which seek review of the same order dated 27.5.99 are adjourned without passing any order thereon at this stage.

(ii) Further time of two months with effect from the date of receipt of a copy of this order is granted to official respondents to comply with the Tribunal's order dated 27.5.99. Meanwhile official Respondents shall not be compelled to make reversions till that date.

13. M.A. No. 236/2000 and M.A. No. 259/2000 stand disposed of accordingly.

16. List on 15.5.2000.

(Kuldip Singh)
Member (J)

(S.R. Adige)
Vice Chairman (A)

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