

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH  
New Delhi

O.A. No. 127 of 1998

New Delhi, this 17th day of the November, 2000

(34)

Hon'ble Mr. Justice Rajagopala Reddy, Vice-Chairman (J)  
Hon'ble Mr. Govindan S. Tampi Member (A)

Sh. Mahavir Singh  
S/o Shri Behari Lal  
R/o WZ 63 II Floor, Mukh Ram Park Extn.  
Tilak Nagar, New Delhi-110018.

(By Advocate: Shri P.L. Mimroth) ... Applicant

VERSUS

Union of India through

1. The Secretary  
Ministry of Home Affairs, North Block  
New Delhi.
2. Chief Secretary,  
Govt of NCT of Delhi  
Sham Nath Marg,  
Delhi.
3. Inspector General (Prison)  
Central Jail, Tihar,  
Delhi.

... Respondents

(By Advocate: Shri Vijay Pandita)

ORDER (oral)

Justice V. Rajagopala Raddy,

The applicant was appointed as Assistant Supdt. of Prisons in the year 1981 through the direct recruitment against the reserved vacancy. Under the extant rules, he was eligible for promotion to the next higher post, D.S.(Prison) Grade II after completion of five years of regular service. However, as he was not promoted, he filed OA 489/1988 which was disposed of on 10.6.1994. In accordance with the direction given by that order, the applicant was promoted to the post of D.S. Grade II w.e.f. 1.7.1987 on regular basis. The next post for promotion is D.S. Grade-I for which in terms of the recruitment rules, completion of three

✓

years regular service in the post of D.S. Grade II, is the eligibility. As the applicant had completed more than three years in the post of D.S. Grade II, he became eligible for promotion in July, 1999 for some reason or the other, he was not considered for promotion. According to the applicant no DPC has been held from 1990 onwards. He was, however, promoted on 9.10.1996 to D.S. Grade I on ad hoc basis. Aggrieved by promotion on ad hoc basis, he filed OA 276/97, which was disposed on 22.8.1997 in which the following directions:-

"The respondents on the other hand submitted that the applicant has been given an ad hoc promotion to the post of Dy. Supdt. Grade-I w.e.f. 9.10.96 without stating whether between 1990 and 1996 any other DPC has been held to consider the promotion to the post of Dy. Supdt. Grade-I. If it has not been held in accordance with the extant rules, the promotion should have been considered yearwise according to the number of vacancies arose in a given year. In the circumstances the only direction that this Tribunal will have to issue now is that the applicant should be considered by a review DPC any time after 1.7.1990 by the next DPC which has considered the promotion of any of the persons to the post of Dy. Supdt. Grade-I in accordance with the rules. It goes without saying that the said consideration shall be in accordance with the Recruitment Rules including the rules governing reservation".

2. Alleging that this direction was not complied with by the respondents, applicant filed MA under Section 24 of the Administrative Tribunals Act, 1985, seeking direction to the respondents to implement the order, but it is stated by the learned counsel for the applicant that the MA was rejected on the ground of limitation.

38

W

(39)

3. Present OA is, therefore, filed on two grounds, one is for non-compliance of the order in OA 276/97 dated 22.8.1997 to promote him to the post of D.S. Grade-I on regular service. w.e.f. 1.7.1990 and other, for modification of the recruitment rules for providing promotional avenues to the staff, Jail Cadre to the posts of Supdt. (Prison) for D.I.G. (Prison) as well as Additional I.G.(Prison).

(39)

4. OA is resisted by the respondents by filing the detailed reply. It is their stand that as the recruitment rules were revised only on 25.4.1995 and the seniority lists for D.S.(Prison) Grade-II and also D.S. (Prison) Grade-I have been finalised on 16.3.2000, the order of the Tribunal could not be complied with. It is now stated by the learned counsel for the respondents that DPC will be held shortly, for promotion of the applicant to D.S. Grade-I, in accordance with the judgement of the Tribunal. It is also stated that as the recruitment rules were under revision, he was prompted to D.S. Grade-I on ad hoc basis in 1996 and the applicant was still working in the said post.

5. We have considered carefully the contentions raised by both the counsel and perused the records.

6. It is not in controversy that as per the recruitment rules 50% of the post of D.S. Grade-I have to be filled up by deputation and remaining 50% to be filled up by promoting. There were 8 vacancies of D.S.

ON

Grade-I and out of which 4 posts were to be filled up by deputation and remaining 4 by promotion. The controversy in this case relates to the non-promotion of the applicant from Grade-II to Grade-I on regular basis, as he was eligible for promotion in 1990. It is undisputed that no DPC was held after 1990. Tribunal in OA 275/97, issued categorical directions to the respondents to consider the cases of the eligible employees for promotion yearwise, according to the yearwise number of vacancies which arose in the given year. As per this, the applicant should have been considered w.e.f. 1.7.1990, as per the rules which was in force during the relevant period which include the rules governing the reservation. Strangely, the direction of the Tribunal has not been complied with so far. According to the respondents, recruitent rules were under revision and the notification has been issued revising the rules only 25.4.1995. The said excuse cannot be justified for not promoting/ complying with the directions after 1995. It is, further, stated that the delay was also due to the pendency in finalising the seniority list. This also cannot be acctpated as pending the same, eligible employees could have been promoted subject to the finalisation of their seniority. It is now more than three years, since the direction had been given and no DPC has been held and the applicant still continues on ad hoc basis, though, he was to be regularised in 1990. None of the reasons given for non-compliance of the directions are, therefore, justified.

7. 2nd contention: No reasons have been shown for depriving promotion avenues from D.S. Grade-I. It is not in the interest of the Deptt. to languish them in the post of D.S. Grade-I on ad hoc basis too long. It is stated that in the neighbouring states of Haryana, Punjab, U.P., those working in Prisons have promotional avenues to the post of DIG, but the same is denied to Delhi employees. It therefore, appears desirable necessary to modify/ amend the rules providing promotion avenues to the D.S. Grade-I, but no direction can be issued by us except for making a suggestion to the Government to consider their cases after consultation of the DOPT, Home Ministry and U.P.S.C. No relief can be granted by us on this count.

8. In view of the foregoing, the respondents are directed to hold the DPC for promotion from the post of Dy. Suptt. Grade II to Grade I for the vacancies of 1990 onwards yearwise on regular basis, within a period of 30 days from the date of receipt of the copy of the order, in compliance of the earlier order in OA 276/97 dated 22.8.1997. No costs.

*Govindaraj S. Tampi*  
(Govindaraj S. Tampi)  
Member (A)

*/ravi*

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