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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1960/1998

New Delhi this the 18th day of August, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri S.A.T. Rizvi, Member (A)

H.C. Siri Bhagwan,
S/O Shri Sri Ram,
R/O D-3, Type-II,
New Police Lines,
New Delhi.

.. Applicant

(By Advocate Mrs Sumedha Sharma)

Versus

1. Union of India,
through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi.
2. Senior Additional Commissioner of
Police, (Administration), PHQ,
M.S.O. Building, I.T.O., New Delhi.
3. Dy. Commissioner of Police,
HQ R.S(I), PHQ,
MSO Building, I.T.O., New Delhi.

.. Respondents

(By Advocate Ms. Jasmine Ahmed)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicant is aggrieved by the order passed by the respondents dated 24.4.1998 rejecting his representation for admission of his name to promotion list 'D' along with his juniors who are promoted by order dated 18.3.1998.

2. We have heard Ms Sumedha Sharma, learned counsel for the applicant and Ms Jasmine Ahmed, learned counsel for the respondents and perused the pleadings and documents on record.

3. The brief relevant facts of the case are that the applicant states that he belongs to Schedule Caste category and is working as Head Constable (Ministerial) with the Delhi

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(b)

Police from 2.1.1989 and has been confirmed in that capacity w.e.f. 17.10.1991. According to him, his service record from the year 1991 to 1996 has remained excellent. He has stated that he had never faced any preliminary enquiry or departmental enquiry and hence, there was no reason why the respondents should not have promoted him to List 'D' under Rule 15 of the Delhi Police (Promotion and Confirmation) Rules, 1980 (hereinafter referred to as the 'Rules'). He has stated that the respondents, after calling the service particulars of eligible staff, convened a DPC under Rule 15 of the Rules for admission of Head Constable to promotion List 'D'. He has also stated that his name was within the zone of consideration. He is aggrieved that his name was, however, missing from the promotion order dated 18.3.1998 whereas his juniors having inferior records were promoted. Mrs. Sumedha Sharma, learned counsel for the applicant has very categorically and vehemently pleaded that the applicant had secured 'Good' in at least four out of five ACRs which have to be taken into account by the DPC and might be having 'satisfactory' grading for the last one year. She has, therefore, contended that as the applicant had secured at least three 'Good' in the last five ACRs which should have been considered by the DPC, there is no reason why the applicant's name should not be included in the promotion List 'D' for confirmation and promotion as ASI. One of the grounds taken by the learned counsel is that the DPC has acted arbitrarily, malafide and laid down the procedure regarding grading of ACRs. In the circumstances,

had not followed the

learned counsel has submitted that the impugned order dated 24.4.1998 by which the representation of the applicant had been rejected should be quashed and set aside and he should be declared as promoted to List 'D' with effect from the same date when his juniors were promoted i.e. 18.3.1998.

4. The respondents in their reply have, after referring to the relevant Rules for promotion of confirmed Head Constable (Ministerial) to List 'D' (Min.), stated that a duly constituted DPC which met on 16.3.1998 had not found the applicant fit. The applicant also does not deny the fact that the DPC considered his case along with his counterparts for promotion List 'D' (Min.). The respondents have stated that the DPC graded the applicant 'Unfit' because he could not achieve the benchmark of 3(three) 'Good' ACRs as per the norms fixed by the DPC. They have also stated in reply to ground 5(c), that the applicant failed to achieve the benchmark of 3 Good ACRs so DPC graded him 'Unfit' for promotion List 'D' (Min.).

5. From the documents on record, we are unable to agree with the contentions of the learned counsel for the applicant that the DPC has acted arbitrarily or in a malafide manner in assessing the suitability of the eligible staff for promotion List 'D' (Min.). The contention of the applicant that according to him, his service records were 'excellent' and that he had got four 'Good' ACRs and perhaps the, last one 'Satisfactory' is based on his own assumptions and there is no supporting document on record. In the circumstances, we are unable to agree with the contentions of the learned counsel for the applicant that the records of the applicant are ^{otherwise} excellent.

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(9)

What has been stated categorically in the reply filed by the respondents is that he had failed to achieve the benchmark of three 'Good' ACRs and so DPC graded him unfit for promotion List 'D'. It is also relevant to note that no rejoinder has been filed, refuting the facts as mentioned by the respondents in the reply which has been filed on 1.1.1999. Learned counsel for the applicant has also pleaded that we should call for the records of the DPC and ACRs of the applicant to verify the facts for ourselves. However, in the facts and circumstances of the case, we do not think that ^{it} ~~the~~ will be necessary, taking into account the averments made ~~by~~ the applicant which are based on his ^{own} ~~his~~ assessment of his service records and the reply filed by the respondents, which is presumably based on official records. Reply on behalf of the respondents has been filed by an officer of the rank of Additional Commissioner of Police which has not been successfully controverted by any documents on record by the applicant.

6. Learned counsel for the applicant has also relied on the judgement of the Tribunal in HC Randhir Singh Vs. Union of India through its Secretary, M/O Home Affairs and Ors. (OA 1333/99) decided on 10.9.1999 (Copy placed on record). Based on the facts in that case the Tribunal had come to the conclusion that the applicant was wrongly not found fit by the DPC and, therefore, a direction had been given to the respondents to consider the case of the applicant afresh for placing his name in the post of ASI. That is, ^{however,} ~~not~~ the position

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prevailing here in this case and therefore, the judgement of the Tribunal in Randhir Singh's case(supra) would not be applicable to the facts of the present case. In other words, for the reasons given above, we find that it cannot be stated that the DPC has acted in a manner which is not in accordance with law and Rules justifying any interference in the matter.

7. In the result, OA fails and is dismissed. No order as to costs.

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(S.A.T. Rizvi)
Member (A)

Lakshmi Swaminathan

(Smt.Lakshmi Swaminathan)
Member(J)

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