

Central Administrative Tribunal
Principal Bench

O.A. No. 1967/98

Decided on 8.12.98

Shri Som Nath

... Applicant

(By Advocate: **Mrs. Meera Chhibber**)

Versus

Commissioner of Police & Ors. ... Respondents

(By Advocate: **Shri Anil Singal proxy**

CORAM **counsel for Shri Anoop Bagai**)

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

1. To be referred to the Reporter or Not? **YES**
2. Whether to be circulated to other outlying
benches of the Tribunal or not? **NO**

Adige
(S. R. ADIGE)
VICE CHAIRMAN (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 1967/98

New Delhi: this the 8th day of December, 1999.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri Som Nath,
S/o Sh. Sohan Lal,
R/o House No. 121-D, A.C. IInd Block,
Shalimar Bagh,
Delhi

... Applicant.

(By Advocate: Mrs. Meera Chhibber)

Versus

1. Union of India,
through
Commissioner of Police, PHQ,
MSO Building, I.P. Estate,
New Delhi.
2. Addl. Commissioner of Police (HQ)
PHQ, MSO Building, I.P. Estate,
New Delhi.
3. Dy. Commissioner of Police (Security),
Vinay Marg, Main Security Lines,
New Delhi. Respondents.

(By Advocate: Shri Anil Singhal proxy for Shri Jog
Singh)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant impugns respondents' order dated 12.7.96 (Annexure-P-I); 25.4.97 (Annexure-P-II) and 4.8.98 (Annexure-P-III). He claims ^{re} pay and allowances on the promoted post together with other consequential benefits.

2. Applicant joined as a Constable in Delhi Police on 1.7.62 and was promoted as Head Constable on 1.5.69. He was arrested in FIR No. 21/76 u/s 52/47 POC Act and under sec. 161 IPC and was convicted to undergo 1 year's R.I and to pay a fine of Rs.200/- by a Court of Special Judge. He filed an appeal in the High Court

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and was acquitted vide judgment dated 12.9.90. He was reinstated in service from the date he was placed under suspension and paid his full pay and salary. The suspension period was treated as on duty.

3. Aggrieved by respondents not promoting him from the date his juniors were promoted, he filed OA No. 1100/91. That OA was disposed of by order dated 17.4.96 with a direction to respondents to consider his case for promotion from the date his juniors were promoted. It was further directed that his case for confirmation and further promotion should also be considered by a review OPC and if found fit, should be considered by a review OPC and if found fit, should be considered for all consequential benefits.

4. Pursuant to that order, respondents have issued impugned orders dated 12.7.96 and 25.4.97 granting applicant proforma promotion in rank of ASI (Exe.) and S.I for the period 8.1.82 to 5.3.97, but it has been stated that during this period he will not be entitled to draw any pay and allowances in the rank of ASI and SI but this period will otherwise count towards increment and seniority. It is these orders with which applicant is aggrieved and he claims pay and allowances as ASI for the above period.

5. We have heard applicant's counsel Mrs. Meera Chhibber and respondents' counsel Shri Anil Singhal.

6. Respondents rely on FIR 17(1) and on a CAT PB order dated 30.7.98 in C.P. No. 210/98 Ram Kishan Vs. V.N. Singh, Comm. of Police & Ors. On the other hand Mrs. Chhibber has invited our attention to the Hon'ble Supreme Court's ruling in Janki Ramn's case 1991(4) SCC 109. Another ruling relied upon by her

is J.N. Srivastava Vs. WO I (1998) 9 SCC 559.

9. In our view the rulings of the Hon'ble Supreme Court in Jankiraman's case (supra) and J.N. Srivastava's case (supra) relied upon by Mrs. Ohibber, fully cover the facts and circumstances of this case, because this is a case where applicant was ready and willing to work on the promotional post but was kept away from the work for no fault of his. It is not a case where applicant kept away from the work on the promotional post for his own reasons although it was offered to him. Respondents have also nowhere stated in their reply that applicant's acquittal by the High Court was by giving him the benefit of the doubt or the delay in the final disposal of the criminal case was on account of applicant. Furthermore we draw support from the Tribunal's order dated 17.4.96 in OA No. 1100/91 directing respondents to consider applicant's case for all (emphasis supplied) benefits consequential to his promotion. It is reasonable to conclude that this direction includes the benefits sought for by applicant in the present OA.

10. In the result the OA succeeds and is allowed. Respondents are directed to pay applicant arrears of pay and allowances in the ranks of ASI and S.I. for the period 8.1.82 to 5.3.97, after adjusting the sums already paid to him. This direction should be implemented within 3 months from the date of receipt of a copy of this order. No costs.

Kul D. Singh
(KUL DIP SINGH)
MEMBER(J)

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN(A).

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