

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A./ 2186/98

New Delhi this the 24th Day of March 2000

HON'BLE SHRI S.R.ADIGE, VICE CHAIRMAN (A)  
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

Purushottam Dass  
S/o Shri Adil Ram  
Presently working as Addl. DCP./PCR,  
R/o G-4, Type V, New Police Lines,  
Kingsway Camp,  
Delhi-110 009. .... Applicant

(Applicant present in person)

Versus

Union of India,  
Through its Secretary,  
Ministry of Home Affairs,  
(U.T. Section),  
North Block,  
Delhi. .... Respondent

(None for the respondents)

O R D E R (ORAL)

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

Applicant impugns respondents order dated 8.6.1998 (Annexure A-1) and seeks ad hoc promotion in JAG of DANIPS w.e.f. 28.6.1996 (Annexure A-3) on which date his immediate juniors were so promoted with all consequential benefits, as well as payment of compensation of Rs. 10 lakhs to him.

2. Applicant was appointed as a DANI Police Officer in 1981 and was holding the charge of the post of A.C.P./H.Q. in East District of Delhi during October/November, 1984 when Communal Riots broke out after the assassination of Late Prime Minister Smt. Indira Gandhi . After the riots, the Central

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Government appointed the Justice Ranganath Mishra Commission to enquire into the allegations of organised violence and the aforesaid Commission recommended the Constitution a separate Committee to enquire into the delinquency of individual Police Officers and Men. That Committee consisting of Mr. Justice Dalip Kapur and Miss Kusum Lata Mittal submitted two different reports in March, 1990. In Miss Kusum Lata Mittal's report, recommendation was made for action against 72 Police Officers, one of whom was the present Applicant. Apprehending action against him, he represented on 7.1.92 ( Ann. A-2 ) requesting that no action be taken against him, and on receiving no response he filed OA No. 277/92 in CAT, Principal Bench, New Delhi which along with other OA's was disposed of by common order dated 9.3.92 directing respondents that in case his name figured in the Kapoor-Mittal reports, copy of the same be supplied to him before proceeding against him. SLP's filed in the Hon'ble Supreme Court against those orders were eventually dismissed on 30.08.96.

3. Meanwhile, respondents served a chargesheet on applicant on 23.3.92. Aggrieved by the same, he filed OA No. 898/92, which remained pending awaiting Hon'ble Supreme Court's order on the SLP's. Applicant also submitted a representation on 24.10.92 to drop the chargesheet which also remained pending.

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However, on the dismissal of the SLP's on 30.08.96, OA No. 898/92 was disposed of, reiterating, the directions given in OA No.277/92.

4. Meanwhile, respondents promoted several persons, including those junior to applicant, to JAG of DANIPS on ad hoc basis, vide impugned order dated 28.06.96 (Ann. A-3) and dated 30.10.1996 (Ann.A-4). Feeling aggrieved, applicant filed OA No.1141/97, in which the Tribunal gave an interim direction to respondents on 28.05.97 calling upon them to consider applicants case for adhoc promotion without taking into account the pendency of the disciplinary proceedings against him. MA No.1605/97 filed by respondents was rejected and, OA No.1141/97 was finally disposed of by order dated 28.07.97 confirming the interim orders, and directing respondents to implement the same within 8 weeks. As these directions was not implemented the same within 8 weeks, applicant filed CP No. 280/97.

5. Meanwhile, respondents furnished to applicant certain extracts of the Kapur & Mittal Committee report on 24.7.97 ( Ann. A-5 ) upon which applicant filed OA No. 1794/97, for setting aside the chargesheet as being without basis. That OA was disposed of by an order granting applicant liberty to represent to the authorities, in which case

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respondents were to dispose of the same within 4 weeks of its receipt. Applicant represented on 12.08.97, but as the same was not disposed of within the prescribed period he filed CP No. 294/97. However, after considering the applicant's representation dated 12.08.97, respondents dropped the charges against him vide order dated 17.10.97 (Ann. A-6), and eventually promoted him to JAG of DANIPS on ad hoc basis with effect from 07.11.97.

6. Applicant's representation dated 10.12.97 (Ann. A-8) for treating his ad hoc promotion with effect from 28.06.96 was rejected vide impugned order dated 08.06.98 (Ann. A-1) against which he has filed the OA.

7. Applicant who argued his case in person has contended that he should have been promoted to JAG with effect from 28.06.96 itself when his juniors were so promoted and not with effect from 17.10.97.

8. The main ground taken by respondents in their reply is that as per Government instructions, ad hoc promotion can only be given from a prospective date subject to vigilance clearance and cannot be given from a retrospective date. Respondents aver that applicants case for regular promotion to JAG of DANIPS along with other officers separately stand

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referred to UPSC , and his ad hoc appointment JAG of DANIPS has no bearing on his regular appointment to the same.

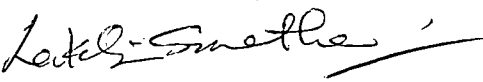
9. Applicant has filed written submission in which he has invited attention to the Hon'ble Supreme Court's ruling in Union Of India versus K.V. Janakiraman (1991) 4 SCC109, in para 26 of which it has been held that when an employee is completely exonerated, meaning thereby that he is not found blameworthy in the least, and is not visited with the penalty even of censure, he has to be given the benefit of the salary higher of the post along with other benefits from the date on which he would have normally been promoted, but for the disciplinary / criminal proceedings. This ruling does not state anywhere that it would apply only to regular promotions and not to ad hoc promotions. Indeed, in the light of the Hon'ble Supreme Court's ruling in K.V. Janakiramans Case (Supra), respondents reviewed the procedure to be followed in regard to promotion of Govt. servants against whom disciplinary / criminal proceedings were pending and by their OM dated. 14.09.92 (copy taken on records) prescribed the sealed cover procedure, which by their subsequent clarificatory OM dated 23.2.99 (copy taken on record) applies to cases of ad hoc promotion also. It is, therefore, clear from the ratio of the Hon'ble Supreme Court ruling in Janakiraman case ( Supra ) as well as the contents of

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OM's dated 14.9.92 and dated 23.2.99 , that the charges against the applicant having been dropped and he not having been found blameworthy in the least, he should have been granted adhoc promotion to JAG of DANIPS alongwith his juniors with effect from 28.06.96 and not with effect from 17.10.97.

10. Under this circumstance , the OA succeeds and is allowed to the extent that the applicant shall be deemed to have been promoted on ad hoc basis to JAG of DANIPS with effect from the date his juniors were so promoted i.e., 28.06.96 and shall be entitled to all consequential benefits including difference of pay and allowances to the higher post, which should be calculated and paid to him within 4 months from the date of receipt of a copy of this order. The claim for compensation is rejected, as there are no good grounds to grant the same. No costs.

  
(SMT. LAKSHMI SWAMINATHAN)  
MEMBER (J)

  
S.R. ADIGE  
VICE CHAIRMAN (A)