

Central Administrative Tribunal, Principal Bench

(9)

O.A. No. 2384/98.

New Delhi this the 26th day of November, 1999

Hon'ble Shri S.P. Biswas, Member (A)

Hon'ble Shri Kuldip Singh, Member (J)

Shri Rishi Pal Singh (D-1930)

S/o Shri Onkar Singh

R/o Quarter No. B-1, Police Station, Paharganj,

New Delhi. ... Applicant

By Advocate Shri Shyam Babu.

Versus

1. Commissioner of Police, Delhi

Police Headquarters,

I.P. Estate,

New Delhi.

2. Dy. Commissioner of Police (Vigilance)

Police Headquarters,

I.P. Estate,

New Delhi.

3. Government of NCT Delhi, Through

Its Secretary Chief,

5, Sham Nath Marg,

Delhi.

... Respondents

By Advocate Shri Arun Bhardwaj.

ORDER(ORAL)

By Hon'ble Shri S.P. Biswas, Member (A)

The limited issue that falls for consideration in this O.A. is the legality of applicant's claim that his name should have been removed from the list of persons of doubtful integrity from the very date when it was included, i.e. 1.6.90 and not from 2.4.97. Determination of this issue goes to the root of applicant's claim for promotion vis-a-vis his juniors.

The appreciation of the aforesaid legal issue would require elaboration, in brief, of the background facts. This is as follows. The applicant was appointed as Sub Inspector (Executive) in pursuance of the judgment of this Tribunal

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dated 10.5.89. The applicant stood confirmed as Sub Inspector (Executive) w.e.f. 24.9.83. However, the applicant's name was brought on the list of persons of doubtful integrity by an order dated 1.6.90 pursuant to a registration of FIR No. 576/89. A Departmental Enquiry was initiated with the issue of a major penalty charge-sheet along with summary of allegations. What followed thereafter was the order of "dismissal" dated 3.5.91. When the DPC met in 1994, the applicant was not considered whereas those juniors to him were promoted to the rank of Inspector (Executive). This happened because the applicant was not considered as he was already dismissed on 3.5.91. Pursuant to this order of dismissal, the applicant agitated against the said order by filing an OA 1152/91 which was decided by this Tribunal on 3.7.95. The applicant was provided with the relief by this Tribunal in terms of quashing the order of dismissal and subsequent reinstatement. It is also seen that the applicant was subsequently acquitted by the criminal court arising out of FIR 576/89 under Section 420/468/471-120B IPC. The applicant thereafter made a representation for his promotion to the next higher grade. On 29.9.97, the applicant preferred yet another representation that his name ought to have been removed from the list of persons of doubtful integrity w.e.f. 1.6.90 and not from 2.4.97. The respondents, however, decided to remove his name from the list of persons of doubtful integrity only from 2.4.97.

3. In the background of the aforesaid details we have to adjudicate the legality of the applicant's claim for promotion from the date his juniors were promoted. It is seen

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that a review DPC met on 17.3.98 for consideration of the applicant's promotion which was due in 1994. The review DPC did not consider the applicant's name favourably on account of the following two reasons:-

(i) that the applicant's name was removed from the list of persons of doubtful integrity w.e.f. 2.4.97. In other words, when the DPC met in 1994 his name was in the aforesaid list and

(ii) that the applicant was out of department in 1994 by virtue of the dismissal order dated 3.5.91.

4. The applicant, therefore, seeks to challenge the respondents' action in removing his name from the list of persons of doubtful integrity w.e.f. 2.4.97. He would contend that this would have been from 1.6.90 in terms of the orders of this Tribunal in OA 2177/96 and OA 827/98 decided on 21.7.98 and 18.8.98 respectively.

5. We have heard the learned counsel for the parties.

6. The respondents submission in these respects are at pages 55 to 59 of the paper-book. Shri Bhardwaj submits that the applicant's name was brought on secret list on account of two different allegations mentioned in paras 3 and 4 of brief facts of the case submitted by the respondents. He was, however, acquitted in the criminal case on 2.4.97 and the case for retention or otherwise of his name from the secret list was considered in April, 1997 and that is how the applicant's

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name was taken out of the list of persons of doubtful integrity w.e.f. 2.4.97.

In the background of details aforesaid and the orders of this Tribunal in the two OAs referred hereinabove, respondents action in removing the applicant's name from the list of persons of doubtful integrity w.e.f. 1.6.90 cannot be sustained in law. In the result, this OA merits consideration and is accordingly allowed with the following directions:-

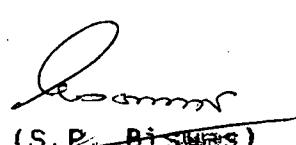
(i) The applicant's name shall stand removed from the list of persons of doubtful integrity with effect from the date it was brought on record, i.e. 1.6.90.

(ii) The respondents shall hold a review DPC and consider the applicant's claim for promotion to the rank of Inspector (Executive) in Delhi Police from the date his juniors were promoted but only in terms of law. The applicant shall also be entitled to have his name placed at the appropriate serial No. in the seniority list vis-a-vis his juniors.

(iii) Our orders as aforesaid, shall be complied with within a period of 3 months from the date of receipt of a copy of this order.

The OA is disposed of as above.

  
(Kuldeep Singh)  
Member (J)

  
(S.P. Biswas)  
Member (A)

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