

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. /XXXX No. 55/1998

Decided on 8.12.1998.

(A)

Shri Rishi Pal Singh.....Applicant

(By Shri Shyam Babu.....Advocate)

Versus

Commissioner of Police & Another..Respondent(s)

(By Shri Arun Bhardwaj.....Advocate)

CORAM:

THE HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)

THE HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

1. Whether to be referred to the Reporter or not? Y,

2. Whether to be circulated to the other Benches of the Tribunal?

(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 55 of 1998

New Delhi this the 8th day of December, 1998

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

(5)

Shri Rishi Pal Singh
S/o Shri Malkhe Ram
R/o V & P.O. Mahipalpur,
New Delhi-110 037.

... Applicant

By Advocate Shri Shyam Babu.

Versus

1. Commissioner of Police,
Delhi,
Police Headquarters,
I.P. Estate,
New Delhi.

2. Dy. Commissioner of Police (HQ-I),
Police Headquarters,
I.P. Estate,
New Delhi.

.. Respondents

Shri Bhaskar Bhardwaj, proxy counsel for Shri Arun Bhardwaj,
Counsel for the respondents.

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

Applicant successfully challenged his non-confirmation in the grade of Constable and also his non-promotion in his previous OA 1106 of 1991. The applicant was confirmed as Constable (Driver) with effect from 1.1.1985. He was also promoted as Head Constable (Driver) Grade-II with effect from 1.1.1986. He was given proforma promotion in the rank of Head Constable (Driver) w.e.f. 1.1.86 to 1.9.1996 during which period, he would not be entitled to draw any arrears of pay and allowances and it was ordered that this period would be otherwise counted towards fixation of his pay and allowances, seniority etc. His name in the seniority list will be between the names of his immediate senior/junior counter-parts vide the respondents letter dated 2.9.96.

2. This is the second round of litigation by the applicant. He is aggrieved that respondents have not considered his case for promotion to the grade of ASI (Driver) w.e.f. 1.4. 1989 or from any subsequent date and he, therefore, seeks a direction to quash the impugned order dated 29.7.1997 containing names of Head Constables (Driver) Grade-II approved by the DPC for appointment to Grade-I ASI (Driver) w.e.f. 21.7.97.

(16)

3. Applicant contends that the respondents have not considered his case despite the fact that he had qualified in the trade test. He was promoted as Head Constable by the order dated 1.1.1986 and after qualifying in the trade test, he was eligible for consideration for promotion as ASI (Driver) w.e.f. 1.4.89. He also further contends that respondents had informed him in 1996 that his name appeared in the list of persons of doubtful integrity w.e.f. 1992. He contends that there was no communication at all on this earlier and he was not given any notice of the same. Further, he contends that as he had unblemished record of service except for the registration of a FIR in September, 1981, on which he was never charged and no criminal proceedings had been taken against him, including his name in the secret list of persons with doubtful integrity in terms of the Standing Order No.265 was unjustified. He asserts he should have been considered for promotion after he has passed the trade test for the aforesaid post of ASI (Driver).

4. The respondents in their counter-reply have stated that the applicant was promoted as Head Constable

(Driver) w.e.f. 1.1.1986 and he was considered for promotion to the rank of ASI (Driver) w.e.f. 1.4.89 i.e. the date from which his immediate junior was considered for promotion to the rank of ASI (Driver). He was asked to appear for the trade test in which he did not qualify and he was also informed accordingly. He, therefore, could not be considered for promotion w.e.f. 1.4.1989 along with his counter-parts. Subsequently in the year 1996, he was again considered for promotion to the said post and for including in the promotion panel in 1996-97. He qualified in the trade test held for the purpose on 29.11.1996 and his case was placed before the Departmental Promotion Committee on 21.7.1997. However, in view of the fact that the applicant's name existed in the secret list of persons having doubtful integrity on that date, his name was not recommended by the DPC for empanelment to Grade-I ASI (Driver). It is stated that his name was brought in the secret list of officials having doubtful integrity with effect from 7.9.1992 on his alleged involvement in the case FIR No.88/81 under section 9 DLRT Act PS Special Cell L&B. The respondents further contend that there was no requirement of giving any opportunity or notice to the applicant before bringing his name in the secret list.

5. In the rejoinder filed by the applicant he contends that registration of a case against him in 1981 can never be a ground for bringing his name in the list of persons having doubtful integrity as per the Standing Order. He also contends that there was no justification whatsoever for such inclusion of his name.

6. We have heard the learned counsel for the parties and have carefully perused the record.

(B)

7. From the facts and pleadings in this case it is evident that the applicant was, in fact, considered for promotion from 1.4.1989 to the post of ASI (Driver) along with other eligible persons but as he did not qualify in the trade test held for the purpose on 4.10.96, his contention that he should be considered for promotion to the post of ASI w.e.f. 1.4.89, is not tenable and is rejected. We have, however, given a serious consideration to the averment of the respondents that the applicant's case for promotion in the subsequent DPC held on 21.7.97 could not be cleared, as his name had been included in the secret list of persons of doubtful integrity in 1992, as per the Standing Order No. 265. The respondents aver that the reason for including the name of the applicant in the secret list is due to his alleged involvement in a case FIR No.88/81 under section 9 of DLRT Act registered in 1981. Since the applicant contends that inclusion of his name in the secret list is not justified, we perused the Standing Order No.265 in this behalf. Para 7 of the Standing Order provides as follows:-

" 7. Secret List of Doubtful Integrity: The list will be maintained in accordance with the instructions about the scheme for preparation, maintenance and custody of list of public servants of doubtful integrity contained in Govt. of India's MHA's letter No.105/1/66-V dated 28.10.69 (Annexure-II). It will include the names of officers falling under one or more of the following categories:-

(i) Officials convicted in a court of law on a charge of lack of integrity or for an offence

involving moral turpitude but on whom, in view of exceptional circumstances, a penalty other than that of dismissal, removal or compulsory retirement is imposed.

(9)

(ii) Officials who are awarded a major penalty departmentally (a) on charges of lack of integrity (b) on charges of gross dereliction of duty in protecting the interest of Govt. although the corrupt motive (s) may not be capable of proof and (c) punished for misuse of power, abuse of official position to extort money.

(iii) Officials against whom proceedings for a major penalty or a court trial are in progress for alleged acts involving specific charges of lack of integrity of moral turpitude. In non-specific cases the names may initially be brought on agreed list and transferred to secret list on award of major penalty/conviction as the case may be.

(iv) Officials who are prosecuted but acquitted on technical grounds and in whose cases on the basis of evidence during the trial, reasonable suspicion remain regarding their integrity.

8. From the above, it appears that mere registration of a case and that too as early as in 1981 without having been formally charged in a criminal case so far, as averred by the applicant, cannot be a good ground for showing his name in the secret list of persons of doubtful integrity. However, the applicant in this present application has not challenged the action of the respondents in including his name in the aforesaid secret list as per the Standing Order.

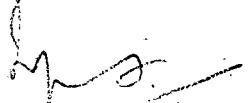
9. In the circumstances, we find it appropriate to dispose of this application with the following directions:-

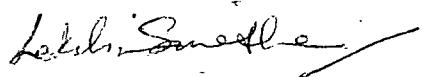
(i) Respondents are directed to reconsider the case of the applicant to examine whether his name should be included in the secret list of persons having doubtful

integrity in terms of the Standing Order No.265, in the facts and circumstances of the case and pass appropriate orders in this behalf within a period of one month from the date of receipt of a copy of this order.

(ii) If it is decided that the applicant's name should not have been included in the secret list, then his case for promotion should be considered by a review DPC for his promotion to the Grade-I of ASI (Driver) in accordance with the rules within one month thereafter, with effect from the date his junior in 1996-97 panel was promoted.

No order as to costs.


(K. MUTHUKUMAR)
MEMBER (A)


(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

Rakesh