

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Contempt Petition No.323/99 in  
Original Application No.1657 of 1994

New Delhi, this the 16th day of February, 2000

HON'BLE MR.S.R. ADIGE, VICE CHAIRMAN(A)  
HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

60

Dharmender Kumar  
S/o Late Shri Kundan Lal Suman  
R/o Pul Prahlad Pur,  
A-108, P.O. Badar Pur  
New Delhi.

... Applicant

By/Advocate Ms. Riche Goel, proxy for Shri R.K. Bhukla

Versus

1. Shri Ajay Raj Sharma  
Commissioner of Police,  
Police Headquarters,,  
MSO Building, I.P. Estate,  
New Delhi-110002

... Respondent

By Advocate Shri Vijay Pandita

O R D E R (ORAL)

By Hon'ble Mr.S.R. Adige, Vice Chairman(A)

1. Heard both sides.

2. It is not denied that pursuant to the Tribunal's order dated 6.8.99 in OA-1657/94, applicant has been granted promotion from retrospective date with seniority and pay fixation but the pay fixation has been done on notional basis and arrears have not been paid to the applicant.

3. In this connection, Shri Vijay Pandita, learned counsel for the respondents states that arrears are not admissible to the applicant in accordance with EP 17 (1).


2

4. However, in the case of Union of India vs. K.V. Jankiraman, 1991 (4) SCC 109, the Hon'ble Supreme Court has held that where the applicant was available and willing to be promoted and was not promoted for no fault of his own, it would be unfair and unjust to deny him the arrears of pay and allowances and in such cases, the principle of "no work no pay" or the question of application of FR 17 (1), would not arise. (b1)

5. In the present case it not denied, the applicant was available and willing to be promoted, but was not promoted for no fault of his own.

6. In this connection, applicant's counsel Ms. Richa Goel has invited our attention to the order of this Bench dated 6.1.2000 in OA-972/96, wherein, in similar circumstances after noticing the Hon'ble Supreme Court's ruling in Jankiraman's case (supra), respondent-1 had been directed to pay the applicant the arrears of pay and allowances from the due date.

7. Under the circumstances, the S.P. is directed of calling upon the respondents to release to the applicant the arrears of pay and allowances from the due date. These directions should be implemented within two months from the date of receipt of a copy of this order and it should not be necessary for applicant to again have to agitate this matter.

  
( Kuldip Singh )  
Member(J)

  
( S.R. Adige )  
Vice Chairman(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.972 of 1996

New Delhi, this the 6th day of January, 2000

HON'BLE MR.S.R. ADIGE, VICE CHAIRMAN(A)  
HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Shri Krishan Pal S/o Late Shri Samey Singh  
R/o Room No.4, Police Station Samepur Badli,  
Delhi (North West District, Delhi) -APPLICANT

(By Advocate: Shri R.K. Sharma)

Versus

1. The Commissioner of Police,  
Delhi Police Headquarters, M.S.O. Building,  
I.P. Estate, New Delhi.
2. Dy. Commissioner of Police (Headquarter-1),  
Delhi Police Headquarters, MSO Building,  
I.P. Estate, New Delhi. -RESPONDENTS

By Advocate: Shri S.K. Gupta.

O R D E R (ORAL)

By Hon'ble Sh. S.R. Adige, Vice Chairman (A)

1. Heard both the learned counsel.
2. Applicant's counsel Shri R.K. Sharma has very fairly submitted that the only surviving grievance of the applicant is regarding grant of arrears of pay and allowances consequent to <sup>applicant's</sup> ~~his~~ promotion as Assistant Sub-Inspector of Police w.e.f. 16.5.95.
3. It is not denied that applicant was not promoted for no fault of his, and despite being available and willing to be promoted, the respondents did not promote him because the applicant's name was entered in the list of persons of doubtful integrity, which was subsequently withdrawn from a back date.
4. In a case such as this, we are satisfied that the Hon'ble Supreme Court's ruling in the case of U.O.I.