

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1761/95

New Delhi this the 2nd day of September, 1999.

Hon'ble Smt. Lakshmi Swaminathan, Member(J)
Hon'ble Sh. S.P. Biswas, Member(A)

Constable Nepal Singh,
S/o Sh. Nayader Singh,
R/o 57, Police Colony,
Ashok Vihar, Delhi.

..... Applicant

(through Sh. S.P. Sharma, Advocate)

versus

1. The Commissioner of Police,
Delhi Police, Head Quarters,
Indraprasth Estate,
New Delhi.

2. The Addl. Commissioner of Police,
(AP&T), Delhi Armed Police,
Police Head Quarters,
New Delhi.

3. The Dy. Commissioner of Police(I),
Police Headquarters,
Delhi Police Force,
New Delhi.

..... Respondents

(through Sh. Anil Singhal for Sh. Anoop Bagai, Advocate)

ORDER(ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Heard the learned counsel for the parties.

The applicant has filed this application as he is aggrieved by the order passed by the respondents dated 07.11.94. He states that ^{as per} he has ^{an} unblemished record of service, the decision of the D.P.C. not to promote him and finding him unfit for promotion should be quashed and set aside and he should be given promotion to the post of Head Constable with all consequential benefits from the date his junior was promoted.

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2. The applicant has stated that the respondents have rejected his representation without proper consideration of the same and without giving any reason. We are unable to agree with this contention of the applicant as the impugned order dated 07.11.94 itself states that his case was considered by the D.P.C. for admission to promotion list 'C' (Executive) but he was declared 'unfit' due to his unsatisfactory service record. His request for promotion was, therefore, rejected. The applicant has further submitted that he is in the service with the Delhi Police from 01.04.1967 and stands confirmed as Constable w.e.f. 09.07.1990. But later on he states that he was first confirmed w.e.f. 01.07.1994. The respondents in their reply have confirmed the later date. According to him no adverse entries in Annual Confidential Report have been communicated to him throughout his service career. He has also submitted that he is entitled to be considered by the D.P.C. for further promotion.

3. He has further stated that he was intimated that none of the juniors of him have been considered for promotion upto April, 1993. This fact has, however, been denied by the respondents who have clearly submitted that the names of the Constables who were found fit by the D.P.C. were admitted to promotion list 'C' (Ex.) w.e.f. 12.11.93 but the applicant was declared unfit due to unsatisfactory

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record. The respondents have also stated that his name also exists in the doubtful integrity list. It is further noted that the applicant's name was again considered for promotion in list 'C' (Ex.) by the D.P.C. but he was again declared unfit.

4. Shri S.P. Sharma, learned counsel for the applicant has submitted that the penalty order of reduction in salary passed in 1989 should not be held against the applicant for ~~admission~~^{promotion}. He further submits that he also understands/reliably that the respondents have since deleted the applicant's name from ^{the "Secret Pz"} ~~seniority~~ list. He, therefore, submits that the respondents may consider the applicant's case for promotion to the rank of Head Constable without taking these two factors into account.

5. In the light of the categorical submissions made by the respondents that the D.P.C. has indeed considered the applicant's name for placement in list 'C' (Ex.) alongwith other eligible Constables, we find no force in the submission made by the applicant that his case has not at all been considered for promotion even though he was eligible. It is settled law that eligible persons only have a right to be considered by a duly constituted D.P.C. in terms of the rules and instructions but do not have a right for promotion if the D.P.C. does not make ^{the} ~~the~~ recommendation. The contention of the applicant that because he has not been communicated any adverse ACR and having

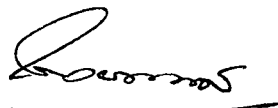
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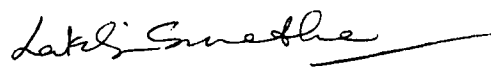
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satisfactory record throughout, the D.P.C. has, therefore, made^a mistake in declaring him unfit has no basis. Admittedly the promotion to list 'C' (Ex.) is on the basis of seniority-cum-merit under the rules and we are unable to agree with the applicant's contention that the D.P.C. had committed a mistake, on the basis of the records placed in the file.

6. For the reasons given above, the application fails and is dismissed. However, this order shall not come in the way of the respondents to consider the applicant's claim for promotion in accordance with the rules and laws taking into account the changed circumstances as referred to by the applicant's counsel.

No order as to costs.


(S.P. Biswas)
Member(A)


(Smt. Lakshmi Swaminathan)
Member(J)

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