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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 2109/95

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

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

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

Prabhu Dayal,
S/O Sh. Sibha Ram,
R/O H.No. 569/18, Om Nagar,
Gurgaon (Haryana) posted as
Assistant Sub Inspector (No. 429/D),
in the office of the Deputy
Commissioner of Police, West
District, New Delhi.

.. Applicant

(None for the applicant)

Versus

The Commissioner of Police,
Police Headquarters,
M.S. Building, I.P. Estate,
New Delhi.

.. Respondent

(By Advocate Shri Surat Singh)

O R D E R (ORAL)

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

The applicant, ASI under the respondents is before us in the 3rd round of litigation. We are, however, concerned with the applicant's appeal as regards consideration for promotion to the rank of S.I. which was the subject matter in OA No. 801/90 when the applicant agitated his case in the 2nd round of litigation. O.A. 801/90 was disposed of by this Tribunal by order dated 21.7.94 with the following directions:-

" In view of the above facts and circumstances of the case, the application is dismissed as such with the liberty to the applicant to make a representation, if so advised, to the respondents for considering his case for enlishment in list 'E' for promotion to the post of S.I. (Ministerial) after ignoring the punishment awarded on 23.9.87 which has been quashed by the order of the Tribunal sometime in 1994. Parties are left to bear their own costs. "

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Pursuant to the orders of this Tribunal, the applicant

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preferred a representation dated 26.7.95. The respondents in compliance with the orders of this Tribunal in OA 801/90 held review DPC on 17.7.95 and came to the conclusion, as recorded in Annexure A-1 which has been impugned herein.

2. The impugned order mentions that the applicant's case for promotion has been considered w.e.f. 31.5.88, 19.8.91, 2.4.92 and 18.1.94 by a Review DPC held on 17.7.95. After evaluation of his service record, he was graded as 'Unfit' for admission to promotion list 'C' (Min.) i.e. from ASI to SI with effect from the aforementioned dates. The applicant has assailed averments mentioned in the impugned order, as Annexure A-1, on large number of grounds. One of the grounds taken is that the review DPC has taken into account the same very adverse remarks once again and no fresh punishment has been given to him after 1990 which could have denied his promotion. Applicant's submissions at grounds C, D and E refer in this connection. In other words, the applicant would submit that the respondents have faulted in taking account the same punishments into consideration which had already been taken into account by them while holding DPCs prior to 17.7.95.

3. Learned counsel for the respondents opposed the claim and would submit that the review DPC held on 17.7.95, as per directions of the Tribunal, again considered him unfit for admission of his name for promotion to list C after considering his overall performance. We find that counter reply had been filed by the respondents on 11.3.96. Since the applicant has been claiming that the same punishment has held against him again and again, it would have been appropriate for the applicant to file rejoinder in reply to the respondents counter dated 11.3.1996. The applicant has failed to do so.

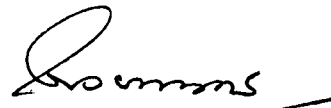
4. Be that as it may, the position of Law in respect of promotion is well settled now. No employee can legally claim


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promotion as a matter of right but has a right to be considered for promotion in accordance with the rules. The applicant has not come out any material to show that the respondents have faulted by acting contrary to the rules and regulation on the subject.

5. In the background of the position of law aforementioned, we do not find any merit in this OA and the same deserves to be dismissed. We do so accordingly. We, however, like to observe that the punishment which was last awarded to the applicant dates back to 30.11.90. Last DPC was held on 17.7.95. As per rules on the subject, DPC is required to consider only the ACRs or personal records of an employee for 5 years preceding the DPC which took place for the purpose for consideration of promotion. Learned counsel for the respondents also do not deny that the last punishment on the applicant was only the impugned order of "censure" dated 30.11.90. And as per the rules/instructions such punishment normally will have no validity after passage of 6 months. Respondents shall, therefore, be at liberty to consider applicant's case for promotion to list 'C' in terms of rules/on ^{in the order} ~~the~~ the subject.

6. O.A. is disposed of as above. No order as to costs.


(S.P. Biswas)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)