

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 2351/95
MA No. 2492/96
MA No. 2593/96

(17)

New Delhi, this the 8th day of September, 1999

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE SH. S.P. BISWAS, MEMBER (A)

In the matter of:

Sh. Bhanwar Singh
S/o Late Sh. Todar Mal,
R/o 9/2, Jag Jeewan Nagar,
Durga Puri, Loni Road,
Shahdara,
Delhi-110093.
(None)

.... Applicant

Vs.

1. Union of India,
through its Secretary,
Ministry of Home Affairs,
New Delhi-110001.
2. The Commissioner of Police,
Police Headquarters,
I.P.Estate,
New Delhi-110002.
3. Dy. Commissioner of Police,
East District,
Shalimar Park,
Shahdara,
Delhi.
4. Dy. Commissioner of Police,
Police Head Quarter I,
P.H.Q. I.P.Estate,
New Delhi.
5. Addl. Commissioner of Police,
Special Branch, PHQ,
(Riot Cell)
Police Headquarter,
I.P.Estate,
New Delhi.

.... Respondents

(By Advocate: Sh. V.S.R.Krishna for Resp. No.1 and
Sh. Rajinder Pandita for Resp. No.2 to 5).

O R D E R (ORAL)

By Hon'ble Sh. S.P.Biswas, M(A)

Neither applicant nor his counsel appeared when the case
came up for hearing on 2.9.99 and 6.9.99. So was the
position so far as the applicant is concerned when the
matter was called even for the second time on date.

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2. Heard Sh. VSR Krishna, learned counsel for Resp. No.1 and Sh. Rajinder Pandita, learned counsel for Resp. Nos. 2 to 5.

3. The applicant, a Sub-Inspector under the respondents is challenging the orders dated 3.5.94 being the seniority list amongst the Inspectors and the orders of promotion of the DCP dated 12.8.94 by which Sub-Inspectors, junior to him, have been promoted to the rank of Inspectors ignoring his superior's claims. The applicant's claim is that he was due for confirmation as Sub-Inspector w.e.f. 1.10.86. This confirmation was, however, delayed on account of a punishment of "censure" having been awarded to him prior to 1989. As a result of this, the applicant got his confirmation as Sub-Inspector only in August, 1989. It is this alleged undue delay in his confirmation of his rank as Sub-Inspector that has caused the entire damage to his carrier in terms of promotion from Sub-Inspector to Inspector.

4. It is also the case of the applicant that the list of confirmation dated 16.5.89 was never circulated amongst the employees with the result that he could not agitate of having been denied due to lack of confirmation at the appropriate time. It is on account of the above two factors that the applicant is challenging the promotion order dated 3.5.94 by which some Sub-Inspectors, alleged juniors to him, have taken march over him in terms of promotion in the grade of Inspectors.

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5. The respondents have contended that there has been no lapses on the part of the officials in informing the the seniority position to the relevant officers in time.

6. The respondents in their counter dated 6.6.96 submitted that the applicant was promoted to the rank of Sub-Inspector w.e.f. 28.9.84. He was due for confirmation on 1.10.86, the date when his immediate juniors were confirmed as permanent in the rank of ASI. The confirmation of the petitioner was deferred due to award of punishment of "censure" on 4.11.96 following lapses noticed in the period 11.6.85 to 9.9.85 and adverse ACR for the period 26.3.85 to 10.9.85.

7. In respect of the applicant's allegation that the list of confirmation was not circulated amongst the employees like the applicant herein, the respondents have come out with the statement that this was circulated in time in all the districts/units of Delhi Police for information of all concerned vide notification dated 16.5.89.

8. The issue that falls for determination is as under:-

Can an employee who was ~~due~~ for confirmation in the year 1986, but was actually confirmed later in 1989 take up the issue by filing an OA in 1995?

9. The position of law on the subject is now well-settled. It is known in the service prudence that any issue touching upon the problem of determination or re-determination of seniority has to be raised at the appropriate time. It is not in doubt that the applicant

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herein is raising the question of his confirmation in the rank of Sub-Inspectors in 1995 when the cause of action arose in June 1989. That apart, the respondents claim to have circulated the seniority position of confirmed sub-Inspectors vide their communication dated 8.6.90. The applicant did not care to challenge that very list. It is, therefore, evident that the applicant did not wake up in time either to challenge the confirmation list of 1989 or the seniority list of confirmed Sub-Inspectors as of 1990. We have seen the MA-2492/96 filed by the applicant seeking condonation of delay. The basis on which the applicant has sought for condoning the delays are available in para 2 of the MA. We are not persuaded to accept the explanation offered as satisfactory. It is well-settled that if a person is sleeping over his rights and there is undue delay in approaching the Tribunal or the Court the application deserves to be dismissed on delay and laches. Anyone who feels aggrieved with the administrative decision affecting seniority has to act with diligence or promptitude. Raking up old matters of seniority after long time is likely to result in difficulties and complications. It is on the basis of this law that the Apex Court had decided that matters which affect the seniority after a long time should be given a quitus as has been observed in M.L.C. Disouja Vs. Union of India and others AIR 1975 SC 1269. For the same reason MA-2593/96 seeking amendment of the OA has to be dismissed based on details aforesaid and position of law. We do not find any ground, much less convincing ones, which would warrant our interference at this belated stage.

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10. The application is hit by limitation as well as devoid of merits and is accordingly dismissed alongwith both the MA No. 2492/96 and 2593/96. as MA stands dismissed.

S. P. Biswas
(S.P. BISWAS)

Member (A)

'sd'

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)

Member (J)