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CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A.No.362 of 1995

New Delhi, dated the 22nd sept. 1995

HON'BLE MR. S.R. ADIGE, MEMBER (A)

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

S.I. Ranjit Singh

No.2731/D,

S/o Shri Chanta Singh,

R/o House No.57, Vill. Dhakka,

Kingsway Camp,

Delhi-110009.

... APPLICANT

(By Advocate: Shri Shankar Raju)

VERSUS

1. Lt. Governor of N.C.T. Delhi/U.O.I.
through the Commissioner of Police,
Police Hqrs., M.S.O. Building,
I.P. Estate,
New Delhi.

2. The Dy. Commissioner of Police (Hqrs.I)
Police Hqrs., M.S.O. Building,
I.P. Estate,
New Delhi.

.... RESPONDENTS

(By Advocate: Shri Girish Kathpalia)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

In this O.A. Shri Ranjit Singh, Sub-Inspector of Police/^{Delhi} has impugned the respondents' action in not bringing him onto promotion List E.1 and in not deputing him to the Upper School Training Course. He has sought for setting aside the order dated 30.1.95 (Annexure A.II) and for a direction to the respondents to hold a review D.P.C. to consider his name for promotion List E.1. The circular dated 23.9.92 (Annexure A.4) has also been impugned as being ultravires and a direction has been sought to treat those with satisfactory reports as eligible

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for promotion.

2. The applicant who was enlisted as a constable in the Delhi Police on 23.12.67, was promoted as Head Constable on 15.3.73, and as S.I. on purely temporary and ad hoc basis on 15.10.91, with ^{the} clear stipulation that it would not entitle him to claim any right for regular appointment or seniority, or for appointment to such ^{as} any other equivalent post, and he would be liable for reversion without notice, or without assigning reason.

3. In Oct. - Nov. 1994 regularly constituted D.P.C., Meetings were held to consider promotion of eligible ASI's falling within the zone of consideration for being brought on to List E.1 (Executive) for regular promotion as S.Is on the basis of their ACRs during the last five years and record of service such as punishments, commendation etc. The applicant's case is that ^{he} fell within the zone of consideration, ^{and} was also considered by the DPC alongwith his counterparts, but according to the respondents' reply, he failed to make the grade as per norms fixed by the DPC, and his name was therefore not included in List E.1. (Ex.). His representation was rejected after consideration, against which he has filed this D.A.

4. We have heard Shri Shankar Raju for the applicant and Shri Girish Kathpalia for the respondents. We have also perused the materials

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on record including ^{the} applicant's ACRs and the record of the DPC proceedings which were produced for our inspection by the respondents.

5. We note that the ACRs of the applicant, alongwith those of his counterparts, were considered by the DPC for the five previous years, during which he earned the following overall remarks in his ACR.

1989-90	Good
1990-91	satisfactory
1991-92	Average
1992-93	Average
1993-94	Average

6. Shri Shankar Raju has argued that as per Govt. instructions contained in DPAR's O.M. dated 10.3.89 the DPC is not to go by the overall remarks contained in the ACR as they have done, but has to make its own assessment of the overall performance of the officer each year, after carefully going through each individual remark, because the overall remarks in the ACR may not tally with the sum of the individual remarks as has happened in this case, where the applicant has earned good remarks against most of the individual items reported upon each year, and yet for that year he has been categorised only as "average" or "satisfactory" at best.

Secondly Shri Raju has argued that the ACR ^{forms} for the year 1991-92 and beyond has ^{provision for} grading ⁱⁿ of outstanding/Very Good/Average/Below Average only, ^{but} and ^{and} no provision for grading as 'good' and yet

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by the impugned circular dated 23.9.92 of the Commissioner of Police (Annexure A.4) only those officers having at least three 'good' or above reports and without any 'below average' or adverse reports may be empanelled. Thirdly, he has urged that the post of S.I. is a non-selection post, promotion to which has to be made on the basis of seniority subject to the rejection of the unfit, and finally he has contended that the Commissioner of Police had no authority to issue the impugned standing order dated 23.9.92, and the DPC has to be guided by its own assessment.

7. We note from the respondents' reply, which has not been denied by the applicant in his rejoinder that 750 ASIs (Executive) fell within the zone of consideration of the DPC, of whom 387 ASIs who made the grade were admitted to promotion list E.1 w.e.f. 25.11.94.

8. Taking Shri Shankar Raju's third argument first, under Rule 5 Delhi Police (P&C) Rules which has been referred to in the note for the DPC, promotions are to be made by selection, tempered by seniority where efficiency and honesty are to be the main factors governing selection. Hence it is clear that the post of E.I. is a selection post, to which eligible persons falling within the zone of consideration, on the basis of their seniority, have to be considered for promotion. The DPC was informed

that there were 373 existing/anticipated vacancies to which recommendation had to be made, including 289 general vacancies, 56 for SC and 28 for ST. In addition there were a back log of 66 SC and 59 ST vacancies for previous years. The DPC considered 750 eligible officers for promotion. Hence the argument that this is not a selection post fails.

9. Neither is the argument sound that the DPC was not guided by its own assessment. In the DPC minutes it is stated that officers having at least three good or above reports during the last five years were being recommended in the general category while SC/ST candidates were being adjudged separately amongst themselves as required under the brochure for SC/ST, and for them overall satisfactory service was being regarded as benchmark. Thus it is clear that the DPC was guided by its own assessment and no reference has been made to the Police Commissioner's impugned standing order dated 23.9.92. Merely because the DPC basis of assessment coincided with the Police Commissioner's guidelines does not vitiate that assessment. Hence this ground also fails.

10. Coming to the individual assessments made by the DPC, it is clear that the individual assessments have been made after due application of mind. For instance, during the year 1989-90 when the applicant has earned individual remarks such as Good, honest, fair, reliable, takes interest, very good etc. overall he has been rated as good. Similarly in the year 1990-91 where he has earned individual remarks such as good, honest, loyal, cordial, takes interest ^{etc.} and "satisfactory" in two vital areas i.e. preventive and detective ability and work experience of criminal law and procedure, which are ^{crucial} ~~vital~~ for determining efficiency, overall he has been rated satisfactory. Similarly for the years 1991-92, 1992-93 and 1993-94 where the remarks range around the term "satisfactory", his overall grading has been given as average. We note from the tabulated CRs of all the officers who were considered, that even if there was no column between very good and average in the CR form, certain officers have been categorised as "good" for a particular year when the applicant was categorised only as average. In any case if there was no provision for recording 'good' in the ACR forms as alleged by Shri Raju, the disadvantage is applicable to all the candidates, and not to the applicant alone.

11. The applicant's case can succeed if he establishes that although he possessed a better record of service for the relevant period, he has been passed over for promotion, but those with not as good a service record as himself, have been promoted. He has not succeeded in doing so. It must be remembered

that the applicant has no enforceable right to be promoted. He has a right only to be considered for promotion, and in the present case he has been considered by a properly constituted DPC against none of whose members, any malafides have been alleged. It is well settled that the Tribunal would be

exceeding its jurisdiction if it substitutes its own assessment for that of the DPC. The Tribunal's jurisdiction is limited to ensuring that the applicant's case has been given due consideration by the DPC and the respondents' decision not to bring the applicant onto list E-1 is not arbitrary, discriminatory, malafide, or perverse.

12. ~~The~~ decision cannot be categorised as arbitrary because it is based on certain well defined criteria; it is not discriminatory because the applicant has not succeeded in establishing that those with a record of service less good than ^{his} have been promoted, while he has been passed over; no malafides have been alleged against anyone; and it is not perverse in that, the decision is not one which no reasonable person would take in the prevailing circumstances.

13. In the result, this matter calls for no judicial interference. The O.A. fails and is dismissed. No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige
(S.R. ADIGE)
MEMBER (A)