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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA NO. 1068/95

New Delhi: this the 13th day of October, 1999.

HON'BLE MR. S. R. ADIGE VICE CHAIRMAN (A).

HON'BLE MR. KULDIP SINGH, MEMBER (J)

Sub-Inspector Laxmi Chand No. D/1168,

S/o Late Shri Mani Ram Sharma,
presently posted at P.S. Bhajanpura,
North-East District, Delhi.

R/o Village & P.O.: Mandawali Fazalpur,
Delhi-092 Applicant.

(By Adv. Sh. Shankar Raju)
Versus

1. Union of India/Lt. Governor of NCT OF Delhi.
through Commissioner of Police,
Police Headquarters, MSO Building,
I.P. Estate,
New Delhi.

2. Dy. Commissioner of Police,
(Headquarters-I),

Police Headquarters, MSO Building,
New Delhi Respondents.

(By Advocate: Shri Vijay Pandita)

ORDER

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

Applicant seeks setting aside of the
DPC's findings dated 26.8.92, 11.11.93 and 12.8.94
(Annexure-A2 to Ann.-A4) and a direction to respondents
to convene a review DPC for promotion to List 'F' w.e.f.
26.8.92 or otherwise and to grant him notional
promotion and ante date his seniority.

2. Applicant who was appointed as Sub-Inspector
of Police (Ex.) on 31.3.71 was confirmed on 17.12.74.
It is not denied that he was censured once in 1982
and twice each in 1983 and 1985. His 3 years' approved
service was forfeitted in 1987 and his name also stood
in the secret list of doubtful integrity from 12.10.87
to 11.2.91 and on the secret list of doubtful integrity

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from 8.6.94 to 24.10.94. It is also not denied that applicant's name was considered for inclusion in Promotion List 'F' in DPCs held on 20.2.89; 11.2.91; 26.8.92; 11.11.93 and 12.8.94. The results of the DPCs held on 20.2.89; 26.8.92; 11.11.93 and 12.8.94 relating to applicant were kept in a sealed cover due to pendency of a DE against him. In the DPC held on 11.2.91, applicant was declared unfit owing to existence of his name in the Secret List.

3. Respondents state that on finalisation of the DE the sealed covers dated 20.2.89; 26.8.92; 11.11.93 and 12.8.94 were opened and it was found that in all DPCs applicant had been declared unfit.

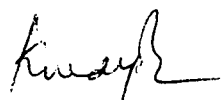
4. It is well settled that a Govt. employee has no enforceable legal right to be promoted. He has only an enforceable legal right to be considered for promotion if he fulfils the prescribed qualification and admittedly applicant was considered for promotion by a regularly constituted DPC against whom no malafides have been alleged. Applicant has himself enclosed a copy of Respondents' Circular dated 23.9.92 (Annexure-A8), containing guidelines for the DPC. Para (ii) of those guidelines lays down that the total record of the officer in that particular rank shall be taken into view with particular reference to the gravity and continuity of punishments till date and punishments on account of corruption and moral turpitude are to be viewed seriously. Para (vi) lays down that results of officers who are under suspension or facing DE or involved in a criminal case shall be kept in a sealed cover.

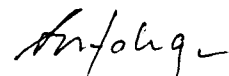
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5. In the present case applicant's name was considered for promotion in the DPCs held on 26.8.92; 11.11.93; and 12.8.94 and admittedly his name was kept in a sealed cover. If, as respondents state, upon opening the sealed cover it was found that applicant had been declared unfit in all 3 DPCs, this Bench cannot substitute its own assessment for that of the DPC. Furthermore when Rule 5(1) Delhi Police (Promotion & Confirmation) Rules prescribes that efficiency and honesty shall be the main factors governing selection, and when the guidelines for DPC referred to above require the total record of the officer to be kept in view, in the background of the facts and circumstances noticed above, it cannot be said that the DPCs impugned findings suffer from such a legal infirmity as to warrant our judicial intervention.

6. The OA is dismissed. No costs.


(KULDIP SINGH)
MEMBER(J)


(S.R. ADIGE)
VICE CHAIRMAN (A)

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