

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO.1203/96

New Delhi, this the 2nd day of February, 2000.

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J)
HON'BLE MR. M.P.SINGH, MEMBER (A)

ASI, Baldhar Singh No.761-D, S/O Sh.
Pheru Singh, aged about 51 years,
posted at Police Control Room, R/O
B-4, Police Colony, Saraswati Vihar,
P.S.Saraswati Vihar, Delhi.

.....Applicant.

(By Advocate: Shri Shankar Raju)

VERSUS

1. Union of India through
Secretary, Ministry of Home
Affairs, North Block, New
Delhi.
2. Dy. Commissioner of Police,
(Headquarters-I), Police Head
Quarters, M.S.O. Building,
I.P.Estate, New Delhi.

....Respondents

(By Advocate: Shri S.K.Gupta proxy counsel
for Shri B.S.Gupta.

O R D E R (ORAL)

By Hon'ble Mrs. Lakshmi Swaminathan, M (J):-

The applicant is aggrieved by the orders passed by the respondents dated 5.12.95 and 11.4.96 by which they have discontinued his adhoc promotion as Sub Inspector and rejected his representation against this order.

2. The brief facts of the case are that the applicant was admittedly promoted as SI on adhoc basis w.e.f. 16.5.91 under the provisions of Rules 19 (ii) of Delhi Police (Promotion & Confirmation) Rules, 1980 (hereinafter referred to as "the Rules"). Shri Shankar Raju, learned counsel for the applicant has submitted that he had also completed the Upper School Training Course in 1993 successfully. He has also submitted that his service

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record for the years 1991 to 1995 is excellent without any punishment. However, he has submitted that in the meantime, a preliminary enquiry (PE) had been ordered against him on 19.6.92 which was later on dropped by the competent authority on 13.7.92. Learned counsel for the applicant has submitted that the reversion/discontinuation of the applicant from the rank of SI and rejection of his representation against this order is illegal, arbitrary and against the rules. This has also been done without any show cause notice to the applicant. In the circumstances, learned counsel for the applicant has sought directions to quash the impugned order discontinuing the applicant as SI w.e.f. 5.12.95 and to consider his case for regularisation/ promotion in Promotion List-E.II, w.e.f. 1993 as there was no charge-sheet or disciplinary proceedings etc. pending against the applicant during the relevant period.

3. We have seen the reply filed by the respondents and heard Sh. S.K.Gupta, learned proxy counsel for the respondents. Basically, the respondents have not disputed the brief facts, as mentioned above. According to them, the applicant was not regularised in the rank of SI and a decision was taken to dis-continue his adhoc promotion because of the preliminary enquiry held against the applicant and suspension order passed against him w.e.f. 1.6.92. However, they have not denied the fact that both these orders have since been recalled as the suspension order has been revoked and the preliminary enquiry has also been dropped.

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4.. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties..

5.. Rule 19 (ii) of the Rules reads as follows:-

"To encourage outstanding sportsmen, marksmen, officers who have shown exceptional gallantry and devotion to duty, the Commissioner of Police may, with prior approval of Administrator, promote such officers to the next higher rank provided vacancies exist. Such promotions shall exceed 5 per cent of the vacancies likely to fall vacant in the given year not in the rank. Such promotions shall be treated as ad-hoc and will be regularised when the persons so promoted have successfully completed the training course prescribed like (Lower School Course), if any. For purposes of seniority such promotees shall be placed at the bottom of the promotion list drawn up for that year."

Admittedly, the applicant had been promoted as SI against the 5 per cent vacancies taking into account the special circumstances as provided in the aforesaid rules w.e.f. 16.5.91. It is also not disputed that this arrangement has been curtailed and his promotion on ad hoc basis was terminated because of the preliminary enquiry which had been initiated against the applicant on 18.6.92. In the facts and circumstances of the case as the preliminary enquiry itself has later on been dropped by the respondents, there is no reason why the respondents should not have reconsidered his case for promotion under Rule 19 (ii) of the Rules under the relevant promotion rules if he was otherwise qualified.

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6. In the result, this application succeeds and is allowed with the following directions:-


a) The impugned orders dated 5.12.95 and 11.4.96 discontinuing the applicant from promotion as SI under Rule 19 of the Rules are quashed and set aside;

b) Respondents are directed to consider the applicant's case for promotion either under Rule 19 (ii) or under the relevant rules for regular promotion, if he is otherwise eligible under the rules, from the due date. However, it is made clear that as ^{the} ~~the~~ promotion was only an ad hoc promotion, he will not be entitled to pay and allowances for the intervening period.

c) The above action shall be taken within a period of two months from the date of receipt of a copy of this order.

Parties to bear their own costs.


(M.P. Singh)
Member (A)


(Smt. Lakshmi Swaminathan)
Member (J)

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