

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 1411/96

New Delhi this the 7th day of July 2000

Hon'ble Smt Lakshmi Swaminathan, Member (J)
Hon'ble Mr. V.K. Majotra, Member (A)

(12)

ASI Jai Narain Malik No. 2655/D
S/o Shri (Late) Chuni Lal,
R/o Qtr. No. 1, Police Colony,
Ashok Vihar, Delhi.

...Applicant

(By Advocate: Shri Shankar Raju)

Versus

1. Union of India
through its Secretary,
Ministry of Home Affairs, North Block,
New Delhi-110001.
2. The Commissioner of Police
Police Headquarters,
MSO Building, I.P. Estate,
New Delhi.
3. Dy. Commissioner of Police
(Headquarters-I)
Police Headquarters,
MSO Building, I.P. Estate,
New Delhi.

...Respondents

(By Advocate: Shri Rajinder Pandita)

ORDER (Oral)

By Smt. Lakshmi Swaminathan, Member (J)

The applicant who is working as a Sub-Inspector with the respondents is aggrieved by the order passed by the respondents dated 17.8.95 (Annexure A-1). He has prayed that this order may be quashed and set aside and a direction may be given to the respondents to promote/restore him to the post of Sub Inspector(Executive) w.e.f. the same date i.e. 17.8.1995 with all consequential benefits.

2. We have perused the pleadings and heard the learned counsel for the parties.

3. In the counter affidavit, the respondents have contended that the promotion of the applicant to the rank of SI(Exe) w.e.f. 5.10.90 was purely on temporary and ad hoc basis under Rule 19(ii) of the Delhi Police (Promotion and Confirmation) Rules, 1980, subject to the condition that the adhoc promotion will depend on his continued good work and conduct during the relevant period. In the counter affidavit filed by respondents on 16.10.96, it was alleged that the applicant had failed to maintain the desired good work and conduct as required by the ad hoc promotion order. In this affidavit, they have mentioned that after the applicant had completed the training in the Upper School Course, his case was examined for regularisation of the ad hoc promotion but it was found that there was some complaint case pending against the petitioner in which the Hon'ble Lt. Governor Delhi had accorded necessary prosecution sanction under section 197(2) Cr.P.C. against him. This fact was stoutly disputed by Shri Shankar Raju, learned counsel for the applicant. He had contended that the sanction for prosecution was not in respect of the applicant but against another SI by the name of Shri Jay Raman Malik who was also working as a Sub-Inspector with the Delhi Police.

4. In the above circumstances, the respondents were called upon to submit relevant records and affidavits to clarify the position. Shri Rajinder Pandita, learned counsel had submitted an affidavit in response to Tribunal's orders dated 27.4.2000, 5.5.2000 and 15.5.2000 which is placed on record. The respondents have also submitted an additional affidavit through their learned

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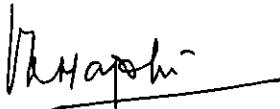
5. We have further heard the learned counsel for the parties.

6. From the aforesaid affidavits filed by the respondents, we note that they have admitted that the sanction for prosecution said to have been accorded by the L.G. Delhi on 27.1.92 for prosecution was not against the applicant, Shri Jai Narain Malik but against one SI Jay Raman Malik. The respondents have further submitted in their affidavit dated 11.5.2000 that after making enquiries in the matter, they found that two other officials of the Delhi Police were involved in the complaint and "there was nothing against SI Jai Narain, No. 5033/C (now 2655/D)". We note from the Memo of Parties in the present OA that the applicant has given his No. as 2655/D and, therefore, it confirms the submissions made by Shri Shankar Raju, learned counsel that there was nothing against the applicant at the relevant time as correct, to deny him the promotion.

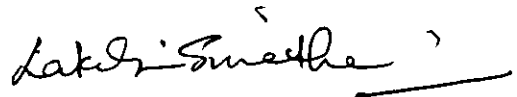
7. In this view of the matter, the OA succeeds and is allowed. The impugned order dated 17.8.95 issued by the respondents is quashed and set aside. The respondents are directed to regularise the promotion of the applicant under Rule-19(ii) of Delhi Police (Promotion & Confirmation) Rules, 1980, from the date his junior has been promoted in accordance with the rules. He shall also be entitled to all consequential benefits, including difference of pay, continuity in service and seniority

(5)

in accordance with the rules. Necessary action in this regard shall be taken within two months from the date of receipt of a copy of this order with intimation to the applicant. No order as to costs.



(V.K. Majotra)
Member (A)



(Smt. Lakshmi Swaminathan)
Member (J)

cc.