

Central Administrative Tribunal
Principal Bench

OA 1930/96

New Delhi this the 10th day of October, 2000

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

Kanwar Singh, ASI,
No. 2554/Sec.,
Security Guard,
New Delhi. **Applicant.**

(By Advocate Ms. Rachna Tiwari proxy for Ms. Sumeet Kaur).

Versus

1. NCT of Delhi through its
Chief Secretary,
Old Secretariat,
Rajpura Road, Delhi.
2. The Commissioner of Police,
Police Headquarters,
I.P. Estate,
New Delhi-110 001. **Respondents.**

(By Advocate Shri Vijay Pandita)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

This is the second round of litigation by the applicant against the respondents. The applicant had filed earlier OA 1204/91, in which the Tribunal, by order dated 10.10.1995, allowed the application in part and the respondents were directed to issue order confirming the applicant as Constable w.e.f. 15.2.1976 and thereafter adjust his seniority and fix his pay in the respective ranks accordingly.

2. In pursuance of that order, the respondents have passed certain orders. Feeling aggrieved by those orders passed by the respondents, the applicant had filed CP 117/96 which has been dismissed by the Tribunal by order dated 1.8.1996. In this order, it has been noted that the

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respondents have stated that all the directions given in the order dated 10.10.1995 have been complied with in letter and spirit which showed the compliance.

3. In the present O.A., the applicant has impugned the orders passed by the respondents dated 1.2.1996, 23.4.1996, 24.6.1996 and 27.6.1996. These orders have been passed in pursuance of the Tribunal's directions in OA 1204/91. The same orders have been referred to in the order dated 1.8.1996 in CP 117/96 as showing compliance with the directions of the Tribunal. Ms. Rachna Tiwari, learned proxy counsel has submitted that whereas the respondents have shown the applicant at Serial No. 252-A in the seniority list of Constables instead of Serial No. 515, taking into account his date of confirmation as 15.2.1976 as ordered by the Tribunal, the same is incorrect because according to her, the applicant should have been given his promotion as ^{Head Constable} Constable ~~B~~ around 1979. Learned counsel has submitted that in 1978, the applicant had appeared in the examination for promotion to List 'A' as per the Rules and, therefore, he ought to have been promoted in 1979 along with his juniors. She has, however, frankly admitted that these details have not been mentioned in the pleadings in the ^B O.A. However, from the reply filed by the respondents, particularly paragraph 4.7, it is noted that they have stated that the applicant had appeared in Promotion List 'A' test held in 1978, but failed to make the Grade, as he had not secured the minimum cut off marks, i.e., 147 fixed for General Category candidates. They have, however, stated that after the applicant was declared passed in the test held in November, 1981, he was brought on Promotion List 'A' w.e.f. 5.2.1982. We are not impressed by the ^B

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submissions made by the learned counsel for the applicant that the cut off marks mentioned by the respondents in their reply for the test held in 1978 are not correct, because if that was so, the same ought to have been challenged before the appropriate forum in time. The ^{Administrative Tribunals} ~~Act~~ provisions of Section 21 of the ~~Act~~ 1985 are relevant to the facts as presented by the learned counsel for the applicant in this regard, and her contention that the applicant ought to have been promoted as Constable in 1979 is not only vague but also untenable in law.

4. Having regard to the orders passed by the respondents, in pursuance of the directions of the Tribunal in OA 1204/91 and the averments made by the applicant in the present O.A., we do not find any merit in the application. The claim of the applicants for ante-dating his seniority as well as ~~for~~ consequential promotions to higher grades are not tenable, and we do not find any justification to interfere with the implementation of the orders ^{by} ~~by~~ the respondents, passed in pursuance of the Tribunal's order dated 10.10.1995 in OA 1204/99.

5. In the result, for the reasons given above, the O.A. fails and is dismissed. Accordingly, MA 900/99 praying for interim directions also fails and is dismissed. No order as to costs.

V.K. Majotra

(V.K. Majotra)
Member(A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'