

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 2177/96

T.A. No.

Date of decision 21.7.98

SI Devender Pal Singh ... Petitioner

Mrs. Meera Chhibber ... Advocate for the
Petitioner(s)

VERSUS

UOI and Ors. ... Respondents

Sh. Aqoop Bagai ... Advocate for the Respondents

CORAM

The Hon'ble Sh. S. R. Adige, Vice Chairman (A)

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

1. To be referred to the Reporter or
not?.

Yes

2. Whether it needs to be circulated to
other Benches of the Tribunal?

No.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Respondents dated 8.8.1996 rejecting his representation for
promotion as Sub-Inspector (Executive) w.e.f. 18.8.1994 and
the order dated 2.1.1996 stating that the DPC proceedings
held on 12.8.1994 had found him unfit when the sealed cover

Central Administrative Tribunal
Principal Bench

O.A. 2177/96

New Delhi this the 21st day of July, 1998

Hon'ble Shri S.R. Adige, Vice Chairman (A).
Hon'ble Smt. Lakshmi Swaminathan, Member (J).

Sub Insp. Devender Pal Singh,
No. 1859/D,
S/o Shri Shashi Pal Singh,
R/o Qr. No. 6-F, PS Chankya Puri,
New Delhi. Applicant.

By Advocate Mrs. Meera Chhibber.

Versus

1. Union of India, through
Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. Commissioner of Police,
PHQ MSO Building,
I.P. Estate,
New Delhi.
3. Dy. Commissioner of Police, HQ I,
PHQ, MSO Building,
I.P. Estate,
New Delhi. Respondents.

By Advocate Shri Anoop Bagai.

O R D E R

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

The applicant, who is working as Sub-Inspector in Delhi Police, is aggrieved by the order passed by the respondents dated 8.8.1996 rejecting his representation for promotion as Sub-Inspector (Executive) w.e.f. 18.8.1994 and the order dated 2.1.1996 stating that the OPC proceedings held on 12.8.1994 had found him unfit when the sealed cover was opened.

2. The respondents had placed the applicant in the 'Secret List' of persons of doubtful integrity from

9.6.1992 to 30.8.1995. According to the respondents, the existence of the name of the official in this list is a bar to his promotion. A DPC had been held in July, 1994 for selection of Sub-Inspectors (Executive) for promotion to List 'F' (Executive). According to the respondents officers whose names stood in the 'Secret List' of persons of doubtful integrity were not considered fit as per S.O. No.265/87. It is stated that at the time when the DPC met, the applicant was facing two departmental enquiries and one in a criminal case. However, the respondents have admitted that the departmental proceedings have been concluded and the charges have been dropped and no charge has been served in the criminal case so far. Hence, the sealed cover was opened and they have stated that the applicant was found graded "unfit" by the DPC and he was informed accordingly by the impugned order dated 2.1.1996. Mrs. Meera Chhibber, learned counsel for the applicant, has submitted that when the disciplinary proceedings have admittedly been dropped by the respondents which means that no punishment order whatsoever was imposed on the applicant, he shall be entitled to have his name removed from the "Secret List" from the date when it was placed there and not from the date when the decision to drop the charges was taken, as stated by the respondents. She also submits that as it is also not the case of the respondents that any charge has been filed in respect of the FIR in the criminal case, there is no reason to deny the applicant's consideration for promotion to List 'F' (Executive) in accordance with the rules from the date his junior was promoted w.e.f. 12.8.1994. She relies on the judgement of the Supreme Court in Union of India & Ors. Vs. K.V. Jankiraman (1991 (4) SCC 109) and two judgements of the Tribunal in Kulwant Singh Vs. Commissioner

of Police and another (OA 716/96) decided on 16.12.1997 and Jagdish Chand Vs. Union of India & Ors. (1989(7) SLR 642) (copies placed on record). In the similar case of Kulwant Singh(Supra), the respondents were directed to convene a review DPC to consider the applicant's case for promotion to List 'F' (Executive) in accordance with law/rules and having regard to the observations made therein.

3. We have considered the pleadings and the submissions made by the learned counsel for the parties. The contention of Mrs. Meera Chhibber, learned counsel, that once the respondents have dropped the departmental proceedings on the basis of which the applicant had been placed in the "Secret List", the applicant will be entitled to have his name removed from that list from the date it was placed there, has not been controverted by the respondents, and is the correct position. The facts in the present case are similar to Kulwant Singh's case (supra) in which one of us (Mrs. Lakshmi Swaminathan) was a Member. In that order, the Tribunal had directed the respondents to convene a review DPC to consider the applicant's case for promotion to List 'F' (Executive) in accordance with the relevant rules. Shri Anup Bagai, learned counsel, has submitted that he will have no objection if a similar order is passed in the present case.

4. In the facts and circumstances of the case, this O.A. is allowed. The impugned orders dated 8.8.1996 and 2.1.1996 are quashed and set aside. The respondents are directed to convene a review DPC to consider the applicant's case for Promotion to List 'F' (Executive) in accordance with law/rules and having regard to the observations made above. If the review DPC decides in his favour, then he shall be

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(23)

entitled to consequential benefits also in accordance with the relevant rules. Necessary action shall be taken by the respondents within 3 months from the date of receipt of a copy of this order. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

S.R. Adige
(S.R. Adige)
Vice Chairman (A)

'SRD'