

Central Administrative Tribunal
Principal Bench

O.A. No. 406/96

Decided on 15/11/99

Mrs. Veera Bala ... Applicant

(By Advocate: Mrs. Meera Chhibber)

Versus

Union of India & Others ... Respondents

(By Advocate: Shri Anil Singh/proxy
counsel for Shri Anoop Bagai)

CORAM

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

1. To be referred to the Reporter or Not? YES
2. Whether to be circulated to other outlying
benches of the Tribunal or not? NO

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

Central Administrative Tribunal
Principal Bench

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O.A. No. 406 of 1996

New Delhi, dated this the 15 November, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

Mrs. Veer Bala,
Sub-Inspector D-2506,
W/o Shri Tarsem Raj,
R/o Police Quarter No. 325,
Ahata Kedara, Delhi. ... Applicant

(By Advocate: Mrs. Meera Chhibber)

Versus

1. Union of India through
the Commissioner of Police,
Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi-110002.
2. Addl. Commissioner of Police,
Police Headquarter,
M.S.O. Building, I.P. Estate,
New Delhi.
3. Dy. Commissioner of Police HQ I,
Police Headquarter,
M.S.O. Building, I.P. Estate,
New Delhi.
4. Shagoon Sharma,
No. D-1273,
through Dy. C.P. HQ I,
Police Headquarters,
M.S.O. Building, I.P. Estate,
New Delhi. ... Respondents

(By Advocate: Shri Anil Singhal proxy
counsel for Shri Anoop Bagai)

ORDER

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

Applicant impugns respondents' orders dated 23.2.95 (Annexure P-1) rejecting her representation for inclusion in Promotion List 'F' for promotion as Inspector in Delhi Police.

✓

2. Admittedly a regularly constituted DPC met on 12.8.94 and selected names of eligible S.I.s of Police (Women) falling within the zone of consideration for admission to List 'F' (Executive) on the basis of the ACRs for the preceding 5 years and record of service. Admittedly applicant's name was considered, but she was not selected, and her representation against her non-inclusion in the Promotion List was rejected by impugned order dated 23.2.95, against which she has filed this O.A.

3. As per Rule 5 of Delhi Police (Promotion & Confirmation) Rules 1980 read with DP&Ts O.M. dated 12.10.90 and 2.4.92 promotions from one rank to another and from lower grade to the higher grade in the same rank shall be made by selection tempered by seniority. Efficiency and honesty shall be the main factors governing selection. In this connection Respondent Department in their Circular dated 23.9.92 (Annexure P II) have prescribed certain principles for DPCs to observe, while considering candidates for admission to Promotion Lists. Within these broad parameters, the DPCs have been given full discretion to devise their own methods and procedures for assessment of candidates who are to be selected by them.

4. The first principle in circular dated 23.9.92, which is of particular relevance in this case, is

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that officers having at least three 'goods' and above reports and without any 'below average' reports during the last five years may be considered for promotion.

5. A perusal of the minutes of the relevant DPC Proceedings dated 12.8.94 which has been shown to us reveals that in so far as general category candidates to which applicant belongs is concerned, the DPC ~~stated~~ stated that it had recommended officers having at least three 'goods' and above reports during the last five years.

6. A perusal of those DPC minutes reveals that applicant was graded by them as follows:

| | |
|---------|-----------|
| 1989-90 | B/G |
| 1990-91 | { B/G |
| | { B/ST |
| 1991-92 | Average |
| 1992-93 | Average |
| 1993-94 | Very Good |

7. As those minutes do not reveal that there were any other impediments to applicant being brought on to Promotion List 'F', the question for adjudication is whether the grading extracted above, gives applicant the three "good or above" reports during the last five years to secure her a place in Promotion List 'F'.

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8. In this connection applicant's ACRs shown to this Court by Respondents reveal that till the year 1990-91, the ACR form contained gradings of only A, B & C and there was no specific grading of Outstanding, Very Good, Good etc. In the year 1991-92 the ACR form was revised to provide for a four point grading of Outstanding/Very Good/Average/Below Average. It was only in the year 1997-98 that a five point grading of Outstanding/Very Good/Good/Average/Below Average was introduced. The difficulty has, therefore, arisen as to the manner in which the grading 'B' is to be interpreted.

9. Mrs. Chhibber has contended strongly that the grading 'B' has to be interpreted to mean 'Very Good' and in this connection has relied upon certain orders of the Tribunal; which themselves refer to certain instructions issued by respondents. On that basis she has contended that applicant has the minimum three goods and above for being brought onto Promotion List 'F'. One problem that arises in accepting this contention is that the authorities who wrote the ACRs for the relevant years, while giving the grading of 'B' for the years 1989-90 and 1990-91, have themselves qualified it by recording that applicant's performance was good or satisfactory (but not very good) for the relevant year/ part of the year. Thus when respondents have themselves qualified the Grading of 'B' as noticed above, it would be difficult for this Bench in judicial review to treat all 'B' gradings as Very Good, regardless of those qualifications.

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10. There is, however, a related issue which commands attention. Mrs. Chhibber has invited attention to the case of Smt. Shagun Sharma whose case was also considered by the DPC in its meeting on 12.8.94 and was recommended for inclusion in Promotion List 'F' at Sl. No.23. The DPC rated her as follows:

| | |
|---------|-------------------|
| 1989-90 | Adverse |
| 1990-91 | - /B/Satisfactory |
| 1991-91 | Very Good |
| 1992-93 | - / G |
| 1993-94 | Very Good |

Below the word "adverse" for the year 1989-90 the following is recorded.

"We have perused the ACRs and found that 'Adverse' remarks are not valid being contrary to laid down instructions.

sd/-

11. In this connection Mrs. Chhibber has pointed out that Ms. Shagun Sharma had filed O.A. No. 181/92 impugning those adverse remarks for the year 1989-90 which had been communicated to her vide Dy. Commissioner of Police order dated 21.9.90. That O.A. was dismissed on merits as warranting no interference by detailed order dated 25.6.92. Nothing was shown to us during hearing to establish that the aforesaid order of the Tribunal, a copy of which was taken on record, was stayed, modified or set aside. It was also not

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explained to us during hearing whether the aforesaid order dated 25.6.92 was ^{placed} before the DPC when it declared the aforesaid remarks to be not valid, and if so the circumstances in which, despite the challenge to those remarks being dismissed by a valid judicial order which was shown to the DPC, that body declared ~~the same~~ ^{marks} to be not valid.

12. Suffice to say that if Ms. Shagun Sharma, despite adverse remarks recorded against her for the period 1989-90, the challenge to which was dismissed by the Tribunal vide its order dated 25.6.92 in O.A. No. 181/92, was brought onto Promotion List 'F' by respondents, applicant's claim for reconsideration of ~~his~~ case for inclusion in Promotion List 'F' w.e.f. that date, is greatly strengthened.

13. Accordingly this O.A. succeeds and is allowed to the extent that the impugned order is quashed and set aside. In the facts and circumstances noticed above, respondents are directed to constitute a review DPC ^{to} reconsider applicant's case for being brought onto Promotion List 'F' w.e.f. the date her immediate junior was so promoted, as early as possible and preferably within three months from the date of receipt of a copy of this order. Upon such promotion applicant shall be entitled to all consequential benefits flowing therefrom, to be determined by respondents in accordance with rules and instructions. No costs.

Kuldeep
(Kuldeep Singh)
Member (J)

/GK/

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