

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 759/96
OA No. 1260/96

New Delhi this the 13th day of December 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mr. R.K. Ahooja, Member (A)

OA No. 759-96

Jagjit Singh,
Sub-Inspector, D.1941,
A-20, New Police Lines,
Guru Teg Bahadur Nagar,
New Delhi-110009.

Through: Ms. Raman Oberoi, Advocate ... Applicant

Vs.

1. Union of India through
Secretary Ministry of Home Affairs,
North Block,
Central Secretariat,
New Delhi.

2. NCT of Delhi
through Chief Secretary,
Old Secretariat,
Delhi.

3. Commissioner of Police,
Police Head Quarters,
I.T.O., Delhi.

4. Sukhbir Singh, D623

(Service to Respondents from serial No.4 onwards
to be effected through Respondent No. 3.)

5. Pushkal Sharma, D. 1931

17. Rajbir Singh, D162

6. Ashwani Kumar, D 1912

18. Anand Kumar, D1926

7. Abhirup Banerji, D 72

19. Sadar Singh, D1896

8. Raj Kumar, D 31

20. Rajinder Parshad
D 213

9. Rajender Parshad, D569

21. Durga Parshad D 44

10. Om Parkash, D 1894

22. Narender Singh
D 1890

11. Kailash Chander D 1927

23. Shahnoor Khan D130

12. Ravinder Kumar, D 166

24. Ganga Ram D1470

13. Umesh Singh D 1935

25. Narender Chawla
D 1911

14. Kailash Chand, D 1915

26. Rajendra Prasad
D1937

15. Ramesh Chand, 620

27. Rajbir, D1923

16. Surender Pal D 1919

28. Dinesh Tiwari D106

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- 29 Jai Kishan D1901
30 Laxmi Chand D 625
31 Bhagwan Kumar D 85
32 Avinash Chander
D1927
33 Rajender Kishore
D 1903
34 Yatinder Kumar
D 628
35 Har Surender Pal
D 214
36 Suresh Kumar D1889
37 Bhrahma Dal D1907
38 Radha Raman D 1908
39 Ram Kumar D 109
40 Rajesh Kumar D1895
41 Satya Prakash D 1893
42 Rajesh Kumar D 1924
43 Santosh Kumar D 1938
44 Naval Kishore D 34
45 Ram Dal D 1920
46 Niranjan Singh
D1914
47 Sanjēev Gupta D 505
48 Satya Pal Singh
D 1946
49 Rajbir Sharma D 2038
50 Mangam Singh D 1954
51 Jhagran Singh D 1929
52 Rajinder Singh D1917
53 Kawal Kishore D367
54 Chaman Lal D 1909
55 Rajinder Pal D87
56 Surender Kumar D 1876
57 Paras Nath D 1950
58 Narender Mohan D 1951
59 Banwari Lal D 1953
60 Lekh Raj D 1956
61 Ram Mehar D336
62 Ved Bhushan D2003
63 Ved Singh D 2027
64 Ram Phal D 2026
65 Ashok Kumar D2004
66 Ram Kumar D 2022
67 Makhan Singh D 2001
68 Lakhinder Singh D 2018
69 Jagdish Yadav D 2020
70 Abhay Singh D 2024
71 Sukhvinder Singh D2008
72 Sushil Tyagi D 2016
73 Rajender Pal D 2017
75 Raja Ram D2654
76 Sher Singh D 1997
77 Laxmi Chand D 2635
78 Gnanan Singh D 2636
79 Mohan Lal D 1487
80 Azad Singh D 350
81 Raj Kumar D 1873
82 Rajinder Singh D 1582
83 Saheb Ram D 1584
84 Mahitab Singh D 1533
85 Ranbir Singh D 1692
86 Pratap Singh D 1723
87 Hoshiar Singh D 1764
88 Bharat Singh D 1785
89 Vijay Rawal D 1767

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90 Ramesh Kumar D 1804	118 Banwari Lal D 2663
91 Rai Singh D 1770	119 Anand Sagar D 1866
92 Kishore Kumar D 1841	120 Bhupat Ram D 2651
93 Narender Kumar D 301	121 Khilari Singh D 2657
94 Hari Singh D 1332	122 Mahesh Kumar D 2050
95 Balram Solanki D 1763	123 Lalit Mohan D 2052
96 Arun Kumar D 1881	124 Har Kripal Singh D 2053
97 Rajender Kumar D 167	125 Sanjeev Kumar D 2055
98 Tejpal Singh D 1816	126 Peeyush Kumar D 2056
99 Virender Singh D 100	127 Abhay Kumar D 2057
100 Anil Kumar D 1947	128 Rajender Singh D 2058
101 Surender Kumar D 1949	129 Shahastra Bau D 2063
102 Azad Singh D 2025	130 Mir Singh D 2064
103 Om Prakash D 705	131 Preet Singh D 2065
104 Rajinder Singh D 2042	132 Madan Gopal D 2087
105 Sanjeev Kumar D 108	133 Ashok Kumar D 2068
106 Satya Pal D 517	134 Rajinder Bhatia D 2070
107 Rarender Singh D 135	135 Krishan Pal D 2074
108 Ranjit Ekka D-126	136 Sunil Kumar D 2077
109 Samay Singh D 1775	137 Ganpat Ram D 2080
110 Om Prakash D-2011	138 Joginder Kumar D 2085
111 Karam Singh D 2723	139 Satish Kumar D 2086
112 Kunden Singh D 2642	140 Jagdish ^{Prasad} Kumar D 2094
113 Shyam Lal D 2650	141 Mool Chand D 2665
114 Dal Singh D 2652	142 Sardar Singh D 2290
115 Hari Singh D 2654	143 Murli Dhar D 2274
116 Daya Chand D 2659	144 Mangal Chand D 2473
117 Sat Pal D 563	145 Shri Krishan D 2491

Through: -----

DA No. 1260/96

Vishnu Dev Madan,
Sub-Inspector, D-1409
13 A, Guru Angad Nagar Extension,
Delhi-110092.

Through: Ms. Raman Oberoi, Advocate

....Applicant

Vs.

1. Union of India through
Secretary, Ministry of Home Affairs
North Block,
Central secretariat,
New Delhi
2. NCT of Delhi
Through Chief Secretary,
Old secretariat,
Delhi.
3. Commissioner of Police,
Police Head quarters,
I.T.O., Delhi.
4. Om prakash, D 1413
(Service to Respondents from S.No.4 onwards to be
effected through Respondent No.3)
5. Ram Swaroop, D 1418
6. Manohar singh, D 1565
7. Rajesh Kumar, D 1583
8. Iqbal Mohd., D 1563
9. Iqbal Singh, D 1525
10. Ved prakash, D 1540
11. Tilak Raj Mongia, D 1609
12. Najmus saeed, D 1534
13. Bhooop singh, D 1520
14. Raj singh, D 1536
15. Atinder Kumar, D 1516
16. Jai Kumar, D 1527
17. Satya Dev, D 1586
18. Virender Kumar, D 1592
19. parkash Chander, D 1557
20. Subhash Tandon, D 1533
21. Harpal singh, D 1524
22. Mahipal singh, D 1531
23. Hira Lal, D 1603
24. Ram phal, D 1604
25. Ashok Kumar, D 1602
26. Raj Kumar, D 1627
27. Narendra Kumar, D 1631
28. Harish Kumar, D 1570
28. Ved prakash, D 1634
30. Dharambir singh, D 1638
29. Mohan Swaroop, D 1632
32. Sir Raj singh, D 1545

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33. Hanuman Dass, D 1546
35. Krishan Kumar, D 1629
37. Chamel singh, D 1571
39. Jaspal singh, D 1611
41. Yad Ram, D 1543
43. Subhash Chander, D 1637
45. Ramesh Chander, D 1695
47. Om prakash D 1671
49. Ram singh, D 1661
51. Jitender Kumar, D 1708
53. Mohinder singh, D 1675
55. suresh Kumar, D 1712
57. sheel Minchi, D 1673
59. Raj Kumar singh, D 1664
61. Mohinder singh, D 1794
63. Roghan Lal, D 1688
65. Buchi Parkash, D 1701
67. Satya Dev, D 1658
69. satyavir singh, D 1657
71. Brahm Parkash, D 1645
73. Ram Kumar, D 1649
75. Murari Lal, D 1722
77. surinder singh, D 1724
79. Manohar Lal, D 1674
81. Bani singh, D 1666
82. Laxmi Narayan, D 1759
85. Harcharan Verma, D 1762
87. Balbir singh, D 1773
89. Dharamvir singh, D 1772
91. Ashok Kumar, D 1792
93. Rajiv Bhatnagar, D 1778
95. Ram Kumar, D 1758
97. Radhey shyam, D 1780
99. Ishwar singh, D 1650
101. Satyavir singh, D 1802
103. Niyampal singh, D 1760
105. Inder singh, D 1783(SC)
34. Karan singh, D 1697
36. Surender Kumar, D 1573
38. Ajay Kumar, D 1589
40. Om Arakash, D 422
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44. Virender Kumar, D 1669
46. Sarabjit singh, D 1698
48. Rajender Sharma D 1714
50. Mahabir singh, D 1816
52. Ashok Kumar, D 1705
54. Vinod Kumar, D 1680
56. Ram singh, D-1700
58. Anjani Kumar, D 1663
60. Ranbir singh, D 1660
62. Satish Chander, D 1643
64. Balwant singh, D 1653
66. Baljit singh, D 1656
68. Satpal, D 1668
70. Jagbir singh, D 1648
72. Rajender singh, D 1644
74. Raja Ram, D 1728
76. Bhim gain, D 1752
78. Bhole Ram, D 1613
80. Ran singh, D 1612
82. Surya Parkash, D 1777
84. Harsh Mittar, D 1601
86. Balbir singh, D 1773
88. Vimal Kumar, D 1803
90. Mahipal singh, D 1809
92. Balraj singh, D 1768
94. Ram Chander, D 1763
96. Laxmi Narain, D 1766
98. Rajiv Rattan, D 1729
100. Has Mohd., D 1785
102. Satish Chander, D 1805
104. Inder singh, D 1817 (SC)
106. Anil Kapoor, D 1785

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107. Om Parkash, D 1814 (SC)
109. Rajesh Kumar, D 1833
111. Vipin Kumar, D 1858
113. Suresh Chander, D 1851
115. Satya Pal, D 1827
117. Ram Pal Singh, D 1830
119. Sher Singh, D 1834
121. Papinder Pal Singh, D 1842
123. Rohtash Dhindhwal, D 1822
125. Attar Singh, D 1848
127. Surat Singh, D 659
129. Jagpal Singh, D 664
131. Joginder Pal, D 2368
133. Biri Singh, D 2410
135. Ran Singh, D 798
137. Jai Kishan, D 429
139. Suresh Kumar, D 359
141. Swatanter Singh, D 257
143. Safdar Ali, D 14
145. Girish Kumar, D 151
147. Sajjan Kumar, D 1780
149. Jagdish Chander, D 627
151. Virender Singh, D 1093
153. Suresh Kumar, D 21
155. Om Bir Singh, D 1005
157. Jagjit Singh, D 193
159. Om Dutt, D 319
161. Sudhir Kumar, D 1090
163. Pardeep Kumar, D 1006
165. Virender Dutt, D 663
167. Ranchir Singh, D 1626
169. Kali Ram, D-1715
171. Mohinder Singh, D 1360
173. Shiv Dayal, D 1017
175. Ram Singh, D 1719
177. Harjinder Singh, D 1375
179. Ram Chander, D 514
181. Ramesh Chander, D 1685
108. Kanta Parshad, D 1838
110. Chander Kant, D 1852
112. Ram Kishan, D 1856
114. Raj Kumar, D 1826
116. Rajinder Singh, D 1854
118. Veer Singh, D 1847
120. Parvinder Singh, D 1825
122. Suresh Chander, D 1829
124. Dhawal Singh, D 543
126. Bhim Singh, D 483
128. Ram Parkash, D 660
130. Ram Singh, D 272
132. Roop Ram, D 2377
134. Mohd. Iqbal, D 59
136. Anil Kumar, D 494
138. Rajiv Kumar, D 424
140. Surinder Kumar, D 996
142. Balwan Singh, D 721
144. Raj Singh, D 91
146. Ramesh Kumar, D 232
148. Kulbhushan, D 348
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152. Jai Singh, D 948
154. Shiv Parshad, D 877
156. Ved Parkash, D 430
158. Sher Singh, D 714
160. Jagdish Prashad, D 521
162. Surjit Kumar, D 108
164. Pukhtiar Singh, D 938
166. Ranbir Singh, D 1717
168. Rajender Parshad, D 1875
170. Narendra Singh, D 1872
172. Bishan Mohan, D 710
174. Om Parkash, D 1606
176. Dal Chand, D 1663
178. Ranjit Kumar, D 241
180. Umed Singh, D 1064
182. Sadanand Rai, D 438

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183. Ishwar singh, D 547
185. sarup singh, D 2108
187. Gajraj singh, D 168
189. Vinod Kumar, D 1877
191. Surya Kant, D 725
193. Rajbir singh, D 321
195. Pushkal sharma, D 1931
197. Abhirup Banerji, D 72
199. Rajender Parshad, D 569
201. Kailash Chander, D 1927
203. Umesh singh, D 1935
205. Ramesh Chand, D 620
207. Rajbir singh, D 162
209. Sadar singh, D 1896
211. Durga parshad, D 44
213. shancoor Khan, D 130
215. Narendra Chawla, D 19
217. Rajbir s D 1923
219. Jai Kishan, D 1901
221. Bhagwan Kumar, D 85
223. Rajender Kishore, D 1903
225. Har Surender pal, D 214
227. Ebrahma pal, D 1907
229. Ram Kumar, D 109
231. Satya parkash, D 1893
233. santosh Kumar, D 1936
235. Ram Dal, D 1920
237. sanjeev Gupta, D 505
239. Rajbir sharma, D 2038
241. Jhagram singh, D 1929
243. Kawal Kishore, D 367
245. Rajinder Pal, D 87
247. Paras Nath, D 1950
249. Banwari Lal, D 1953
251. Ram Mehar, D 336
253. Ved singh, D 2027
255. Ashok Kumar, D 2004
184. Hari Ram, D 76
186. Grijinder pal singh, D 1898
188. Sunil Kumar, D 215
190. Ranchir singh, D 624
192. Vinod Kumar, D 1932
194. Sukhbir singh, D 623
196. Ashwani Kumar, D 1912
198. Raj Kumar, D 31
200. Om Parkash, D 1894
202. Ravinder Kumar, D 166
204. Kailash Chand, D 1915
206. Surender pal, D 1919
208. Anand Kumar, D 1926
210. Rajinder Parshad, D 213
212. Narendra singh, D 1690
214. Ganga Ram, D 1470
216. Rajender Prasad, D 1937
218. Dinesh Tiwari, D 106
220. Laxmi Chand, D 625
222. Avinash Chander, D 1927
224. Yatinder Kumar, D 626
226. Suresh Kumar, D 1389
228. Radha Raman, D 1906
230. Rajesh Kumar, D 1895
232. Rajesh Kumar, D 1924
234. Nawal Kishore, D 34
236. Niranjan singh, D 1914
238. Satya Pal singh, D 1946
240. Mangam singh, D 1954
242. Rajinder singh, D 1917
244. Chaman Lal, D 1909
246. Surender Kumar, D 1876
248. Narendra Mohan, D 1951
250. Lakh Raj, D 1956
252. Ved Bhushan, D 2003
254. Ram Phal, D 2026
256. Ram Kumar, D 2022

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257. Makhan Singh, D 2001
259. Jagdish Yadav, D 2020
261. Sukhvinder Singh, D 2008
263. Rajender pal, D 2017
265. Sher Singh, D 1097
267. Gnanan Singh, D 2636
269. Azad Singh, D 350
271. Rajinder Singh, D-1582
273. Mahitab Singh, D 1533
275. Pratap Singh, D 1723
277. Bharat Singh, D 1785
279. Ramesh Kumar, D 1804
281. Kishore Kumar, D 1841
283. Hari Singh, D 1332
285. Arun Kumar, D 1881
287. Tejpal Singh, D 1818
289. Anil Kumar, D 1847
291. Azad Singh, D 2025
293. Rajinder Singh, D 2042
295. Satya Pal, D 517
297. Ranjit Ekka, D 126
299. Om Parkash, D 2011
301. Kundan Singh, D 2642
303. Dal Singh, D 2652
305. Daya Chand, D 2659
307. Banwari Lal, D
309. Bhupat Ram, D 2851
311. Mahesh Kumar, D 2050
313. Har Kirpal Singh, D2053
315. Peeyush Kumar, D 2056
317. Rajender Singh, D 2058
319. Mir Singh, D 2064
321. Madan Gopal, D2087
323. Rajender Bhatia, D 2070
325. Sunil Kumar, D 2077
327. Joginder Kumar, D 2065
329. Jagdish Prasad, D 2094
331. Sardar Singh, D 2290
333. Mangal Chand, D 2473
258. Lakhinder Singh, D 2018
260. Abhay Singh, D 2024
262. Sushil Tyagi, D 2016
264. Raja Ram, D 2654
266. Laxmi Chand, D 2635
268. Mohan Lal, D 1487
270. Raj Kumar, D 1873
272. Saheb Ram, D 1584
274. Rabbir Singh, D-1692
276. Hoshier Singh, D 1764
278. Vijay Rawal, D 1767
280. Rai Singh, D 1770
282. Narender Kumar, D 301
284. Balram Solanki, D 1763
286. Rajinder Kumar, D 167
288. Virender Singh, D 100
290. Surender Kumar, D 1049
292. Om Prakash, D 705
294. Sanjeev Kumar, D 108
296. Narender Singh, D 135
298. Samay Singh, D 1775
300. Karam Singh, D 2723
302. Shyam Lal, D 2650
304. Hari Singh, D 2654
306. Sat Pal, D-563
308. Anand Sagar, D 18886
310. Khilari Singh, D 2657
312. Lalit Mohan, D 2052
314. Sanjeev, D 2055
316. Abhay Kumar, D 2057
318. Shahastha Bau, D 2063
320. Preet Singh, D 2065
322. Ashok Kumar, D2063
324. Krishan Pal, D 2074
326. Ganpat Ram, D 2080
328. Satish Kumar, D 2086
330. Mool Chand, D-2665
332. Murlidhar, D 2274
334. Shri Kishan, D 2491

On (By Advocate:- Shri Rajinder panelita) Respondents

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ORDER (Oral)

By Mr. R.K. Ahooja, Member (A)

Both the OAs arise out of the decision of the Departmental Promotion Committee on promotion from the rank of Sub-Inspector to Inspector in Delhi Police. Since both OAs raise similar issues for consideration, these are being disposed of by this common order..

2. The applicants in both the OAs are working as Sub-Inspector and are eligible on the basis of the seniority, for admission to list 'F' (Exe.) and subsequently to be promoted as Inspector. The Govt. of India sanctioned the upgradation of posts at various levels from Constable to Assistant Commission of Police by an order dated 1.6.94. A total of 337 vacancies of Inspectors thereby became available. A DPC was held to consider the cases of the eligible Sub Inspectors on 12.8.94. Both the applicants herein were, however, not approved for promotion.

3. The case of the applicants is firstly that the said posts of Inspectors for which the DPC was held were the result of upgradation which was undertaken, on the admission of the respondents themselves, in order to remove long standing stagnation in the rank of Sub-Inspectors. In view of this position the newly created posts were to be filled up on the basis of seniority and not on the basis of the normal rules of promotion of Delhi Police. The second contention of the applicants is that the DPC did not consider the cases of the applicants in terms of their

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own guidelines which were determined by a Circular dated 23.9.92. It is contended on behalf of the applicants that the first guideline required that officers having atleast three 'Good' reports and without any 'below average' or adverse remarks during the last five years were to be promoted. On the other hand the format provided for recording the annual assessment of the officers had no provision for the grading of 'Good'. Therefore, the case of the applicants herein was not properly considered and there was no proper application of mind on the part of the DPC. Thirdly, it has been contended that a number of other Sub-Inspectors with bad records and certainly inferior record than those of the applicants have been declared fit for promotion ignoring the claims of the applicants. The fourth contention on behalf of the applicants is that the DPC has taken into account certain minor punishments of Censure even though such a minor punishment is not a bar to promotion. Lastly, it has been contended that even in regard to promotion made on adhoc basis, the respondents having not followed the criteria of seniority.

4. The respondents have on the other hand stated that the cases of the applicants were considered in accordance with the rules. They point out that the Govt. of India while upgrading the posts had included a stipulation that the newly created posts would be filled up in accordance with the regular promotion rules. They also state that the cases of the applicants were duly and properly considered by the DPC and they were not found fit for promotion. They also refute the allegation that persons with inferior

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records have been promoted. In regard to adhoc promotions they submit that only those persons have been given adhoc promotions who were approved for regular promotion by the DPC.

5. We have heard the counsel at great length. In regard to the first question raised by the learned counsel for the applicant viz; that the new vacancies were really a matter of upgradation, we are unable to find any merit therein. Normally, if a modified procedure is to be followed then the scheme for upgradation itself provides for a modified form of selection. In the present case the Presidential order conveying the creation of the new vacancies dated 22.6.94 provides as follows:-

"In pursuance of this cadre review, the up-gradation/abolition of posts may effected and the posts in Higher grade be filled in accordance with Recruitment Rules".

6. Clearly, the available vacancies were to be filled up in accordance with the Recruitment Rules and not by seniority alone.

7. As regards the contention of the learned counsel for the applicant that persons with much inferior record have been promoted reliance has been placed on the decision of the Tribunal in OA No. 1652/94 decided on 20.5.99 Bhim Singh Vs. Secretary, Ministry of Home Affairs. We have perused that decision. After considering the case of those who were alleged to have been promoted despite inferior records the Tribunal decided that the cases of the applicants in that OA deserves to be reviewed by the DPC. We find

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that the order of the Tribunal has been stayed by the High Court of Delhi. Even otherwise we do not consider that merely because other persons have been found fit by the DPC does not mean by itself that the applicants herein even though otherwise unsuitable for promotion in terms of the promotion rules should still be considered fit for promotion.

8. In regard to the plea that in respect of adhoc promotions the criteria of seniority has not been followed, we find that the adhoc promotions were ordered because these related to vacancies which are of a consequential nature inasmuch as they would have become available only after the officers of Inspector rank were promoted to the rank of Asstt. Commissioner of Police. In these circumstances, we are unable to find any fault with the action of the respondents in filling up the adhoc vacancies from amongst those Sub-Inspectors who had been found fit for regular promotion by the DPC.

9. We need re-produce only the guideline relevant to the purpose of this OA, which reads as follows:-

"Officers having at least 3 ;Good or above' reports during the last 5 years were recommended in general category. However, SC/ST candidates were adjudged separately amongst themselves, as required under the brochure for SCs/STs".

10. We have examined the ACR Dossiers of the two applicants and we find that the relevant period for consideration was 88-89 to 93-94. The ACRs format for 88-89 had a classification titled "Class of report

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'A', 'B' and 'C'. Although the provision of Punjab Police Rules describing this classification has not been produced before us, learned counsel for respondents on instructions explains that classification 'A' stands for 'Very Good', 'B' stands for 'Satisfactory to Good' and 'C' is 'Average and Below Average'. From 1991 to 1992 the format of the ACR was changed and the provisions were made for overall grading as follows:-

Outstanding/Very Good/ Average/Below Average.

11. It is clear that neither in the format in use prior to 1991-92 nor ~~are~~ ^{one} they introduced in 1991-92 there was a specific grading known as 'Good'. In view of this the classification 'B' in the earlier ACR Format and 'Average' in the later format could not by itself mean a grading below 'Good'. This point was also dealt with by this Tribunal in OA-481/97 decided on 11.4.97. On the perusal of the record of the applicants in that case the Tribunal came to the following conclusion:-

"Had there been a category of 'good', the petitioner would have been graded 'good' for all the three years, where his grading has been shown as 'average'; therefore the average seems to be equivalent to 'good'.

12. A similar view has been taken by the Tribunal in other related cases also. Therefore, as to whether the grading of 'average' is to be recorded as 'good' or otherwise would depend upon the overall ACRs.

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13. We now come to the last contention of the learned counsel for the applicant viz; that the award of a minor punishment of 'Censure' cannot stand in the way of promotion. We are entirely in-agreement with the learned counsel that as per the Standing orders of the Delhi Police the minor punishment of 'Censure' cannot be a bar to promotion after a period of six months. This has also been recognised in the guidelines for promotion in the Commissioner of Police Circular dated 23.9.92 which reads as follows:-

"Officers who have been awarded censures during the last six months with no other punishment may also be allowed to be brought on promotion list provided they do not have any other major punishment. however, the effect of censure by debarring the official for promotion by six months shall continue".

14. While we agree that the penalty of the censure cannot be a bar to promotion after six months, it does not mean that this penalty cannot be taken into account for consideration for determining the suitability of the officer for promotion. This point had also earlier come up before the Tribunal in the case of SI Sajjan Kumar Vs. Secretary, Ministry of Home Affairs and Others. The Tribunal had therein held as follows:-

" While it is true that censure is a minor penalty and does not stand as a bar against promotion after six months, nevertheless it is part of the permanent record of an officer and is a relevant factor for considering his suitability and fitness. Censure as any other adverse remarks in the service records will be relevant at the time of consideration for promotion".

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15. This observation has also been endorsed by the latest decision of this Tribunal in OA No. 1789/94 decided on 18.11.99. We are also respectfully agree with this conclusion and hold that while censure is not a bar to the promotion as such, it is still a relevant factor for considering the suitability of the officer for promotion.

16. In the light of the above discussion, we find that the cases of the applicants have to be considered on the basis of their record for determining whether their average entries indicate a 'good' grading. We, therefore, called for the record of the applicants as well as the DPC proceedings. On the basis of our examination of these records we find the position as follows:-

S.I. Jagjit Singh (applicant in OA-759/96)

We find that SI Jagjit Singh No. D-1941 in the ACR for the period 16.7.89 to 31.3.90 has been given 'A' classification which means at least a grading of 'very good'. For the period from 1.4.90 to 31.12.90 he has been given 'A' classification. For the period 30.11.90 to 31.3.91 he has been given 'B' classification. The concluding remarks are that 'he is loyal and sincere worker. Takes interest in the Government job. He is also hard working worker. Work and conduct remained very good'.

In view of this position the 'B' classification cannot be recorded as 'average' or 'below average' grading. For the period 1991-92, under the new format his overall grading is 'Average'. He has, however, been shown as impartial and objective, devoted to official work and duty. His overall work and conduct has been described as satisfactory. As regards this ACR, we consider that since an assessment in either way is possible, the matter can be decided by the DPC. For the period 1992-93 the officer has been certified as having Very good moral

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character, Impartial, Helpful, Sincere Worker, Good in Organising capacity, Good in Personality, Good in Power of Command. The overall assessment shows that 'his work and conduct is good'. Therefore, an average grading really ~~deserves~~ ^{merits} that he has been graded as 'good'. For the period 1992-93 he has been given average grading but overall assessment shows that 'his work and conduct is good'.

17. It appears to us, therefore, that the DPC has not given proper consideration to the case and has only gone by the overall grading of 'average'. Considering that there was no provision for the 'good', grading there should have been an overall assessment of the various entries in the ACR of that years. We are, therefore, of the opinion that the case of the officer deserves a review.

18. SI Vishnu Dev Madan (OA 1260/96)

We have seen the proceedings of the DPC and also the ACR records of officer. The officer had been given punishments as follows:-

"1) Censured in 1983 for unnecessarily arresting a person.

2) Censured in 1985 for delaying the registration of case FIR No. 420/85 PS Defence Colony.

3) One year approved service forfeited in 1987 for failing to take action on a complaint. (D.O.O. 15.10.87)

4) One year approved service forfeited on 6.6.88 for arresting and unnecessary beaten the accused.

5) Censured in 1992 for failed to arrerst the accused in case FIR No. 191/91 PS Geeta Colony.

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6) Censured in 1992 for not arresting the accused in case FIR No. 303/91 PS Krishna Nagar".

19. It has been contended before us by the learned counsel for the applicant that the punishment of Censure awarded to the applicant for the year 1992 has been set aside on account of the cancellation of the cases. Even if that were so, we find that there is a censure against the officer in 1985 and a punishment of stoppage of increment in 1987. He was also censured in 1988. There was also a punishment of forfeiture of one year approved service in 1994 which was reduced to censure on appeal. As we have stated the imposition of penalty of censure can be taken into account for assessing the suitability of the applicant for promotion. The applicant has a good record otherwise. However, in view of the punishments imposed on him, it cannot be said that the case of the applicant has not been properly considered when the DPC determined him to be unfit for promotion. The contention of the learned counsel that ignoring him for promotion on the basis of these punishment constitutes double jeopardy is in our view not correct. While on one hand the punishment^{are} ~~is~~ for acts of omission or commission, they also are indicative of the applicant's suitability for promotion. The punishment of censure has necessarily to be taken into account in the same manner as any adverse remark which may otherwise be recorded.

20. For the aforesaid reasons, we do not consider it that any interference is called for in this case.

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21. In the light of the above discussion, we allow the OA-759/96. Respondents are directed to consider his case for being brought onto promotion list 'F' with effect from the date of his immediate junior was brought onto that list by means of a detailed and reasoned order.

22. OA No. 1260/96 is dismissed. No costs.

~~R.K. Aheoja~~
(R.K. Aheoja)
Member (A)

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.