

Central Administrative Tribunal

Principal Bench

OA No.92/96

New Delhi, the 9th May, 1996.

Hon'ble Shri A.V. Haridasan, VC(J)
Hon'ble Shri R.K. Aahooja M(A)

Shri Nand Ram -77-L
S/o Sh.Kanahya Lal
r/o Barrack No.11 Old Police Lines,
Rajpur Road, Delhi. ..

Applicant

(Advocate: Mrs. Meera Chiiber)

versus

1. Lt.Governor
Raj Niwas
-Govt. of NCT
Delhi.

2. Commissioner of Police
Delhi Police Hqrs,
MSO Building
I.P. Estate,
Delhi.

3. Dy. Commissioner of Police
Hqrs(I) Delhi
Police Headquarters, MSO
Building, IP Estate,
Delhi.

4. Shri Mansa Ram, ASI(Mounted)
No.835/L
through: Dy. Commissioner of
Police, Hqrs(I) PHQ,
IP Estate, New Delhi. ...

Respondents

(Advocate: Sh.Arun Bhardwaj)

ORDER (Oral)

Hon'ble Shri A.V. Haridasan, VC(J)

The applicant is a Head Constable

in Delhi Police is aggrieved of the fact that

the fourth respondent who is junior to him has

been favoured with ad-hoc promotion by order dated 23.5.1995 under rule 19 (i) of Delhi Police (Promotion and Confirmation) Rules, 1980. The applicant alleges that the action on the part of respondents no. 1, 2 & 3 in promoting the respondent no. 4 on ad hoc basis ahead of him who is senior and has consistent excellent service records, is arbitrary, unreasonable and wholly unjustified. The applicant has filed this application praying for quashing the order dated 23.5.95 passed by the Authority for promoting the fourth respondent as ASI on ad hoc basis. The applicant has also in the alternative prayed that as he has already been promoted under Rule 19 (i) of Delhi Police (Promotion and Confirmation) Rules, 1980, he may be given all the benefits i.e. the seniority etc. w.e.f. the date the fourth respondent was illegally promoted.

2. The respondents seek to justify the impugned order on the ground that the 4th respondent was given ^{term} ~~out of term~~ promotion ahead of the applicant who is admittedly senior on recognizing his merit as an outstanding sportsman under Rule 19(i) of the Delhi Police (Promotion and Confirmation) Rules. The reply was filed through counsel for respondents Shri Arun Bhardwaj. When the application came up for hearing, Shri Bhardwaj stated that he is representing only respondents No. 1, 2 & 3, but the reply filed through the counsel shows that it was filed on behalf of respondents. However, despite service of notice, the ^{defd} 4th respondent also not appear and plead.

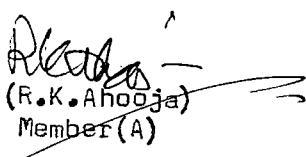
3. On perusal of the pleadings and materials on record as also the relevant Rules and on hearing the learned counsel on either side, we find that the impugned order is arbitrary, unjust,

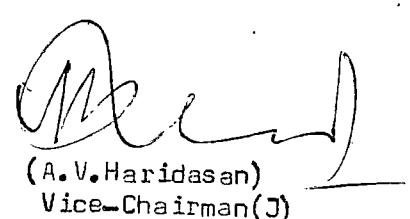
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against the provisions of Rule 19(i) and (ii) of the Delhi Police (Promotion and Confirmation) Rules. If the promotion of the respondent no. 4 is treated as under Rule 19(i) then prior approval of the Administration was necessary for ordering such promotion. It is an admitted fact that the order was issued without prior approval. It is contended that this order was issued in anticipation of approval, which is not permissible under the rules. Further, it is also admitted that the proposal for giving ad hoc promotion to respondent no. 4 under Rule 19(i) had been turned down by the Administrator. Further more, as per rules ad hoc promotion under Rules 19(i) cannot be made *arising in a* in excess of 5% of the vacancies *according with relevant year.* Admittedly there are only three posts of A.S.I. and therefore the ad-hoc promotion of the fourth respondent is in excess of 5% of vacancies. Hence, the ad hoc promotion of the fourth respondent purported to have been ordered under Rule 19(i) is against the rules, arbitrary and partisan and is liable to be struck down. The fourth respondent cannot be validly promoted even on ad hoc overlooking the seniority of the *even under such rule 19(i),* applicant, unless there was anything which rendered the applicant ineligible for such promotion at that time. Hence, the impugned order is unsustainable on that ground also.

4. In the result, the application is allowed and the impugned order, Annexure 'A', dated 23.5.1995 granting ad-hoc promotion to the respondent no. 4 is set aside.

There is no order as to costs.


(R.K. Ahoja)
Member (A)


(A.V. Haridasan)
Vice-Chairman (J)