

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA NO. 1377/1997

New Delhi, this the 25th day of May, 2000

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. V.K.MAJOTRA, MEMBER (A)

In the matter of:

1. Vijay Kumar (D-1/432)
S/o Late Sh. Ved Barat Bouri
R/o A-274, Vikaspuri
Delhi.
2. Shri Veerender Singh Ahluwalia (D-1-450)
S/o Late Shri Gurbachan Singh Ahluwalia
R/o 1/9547, West Rohtas Nagar
Gali No.3, Pratap Pura
Babar Road, Shahdara
Delhi-110032.
3. Shri Rajpal Singh (D-1/564)
S/o Shri Manish Singh
A-408, Ganesh Nagar
Shakarpur
Delhi-110092.
4. Shri Satish Kumar Ahuja (D-1-454)
S/o Late Shri P.L.Ahuja
R/o D-3, Pitampura Police Lines,
Delhi. Applicants
(By Advocate: Sh. Shyam Babu)

VS.

1. Union of India
through Secretary
Ministry of Home Affairs
North Block
New Delhi.
2. The Govt. of National Capital Territory of Delhi
through its Chief Secretary
5, Sham Nath Marg
Delhi.
3. The Commissioner of Police, Delhi
Police Headquarters
I.P.Estate
New Delhi.
4. Sh. Rajeshwar Gautam (D-1-252)
presently posted as
SHO, Police Station Mangalpuri
North West District, Delhi
service to be effected through
Respondent No.3 Respondents
(By Advocate: Sh. Ajay Gupta)

(9)

ORDER (ORAL)

By Hon'ble Sh. Ashok Agarwal

Applicants, who are four in number, seek to impugn the integrated seniority list issued on 20.9.1996 at Annexure 'H'. They also impugn orders dated 13.11.1996 issued by the Deputy Commissioner of Police, Headquarters (I), New Delhi rejecting their representation which in turn sought to impugn the aforesaid integrated seniority list. Facts of the present OA can be summarised as under.

2. All the four applicants in the instant OA were enlisted as Sub-Inspector in October, 1969. Respondent No.4 whose seniority is seriously challenged by the applicants was enlisted as Sub Inspector (Executive) later in April 1970. On 11.12.1984 seniority list of confirmed Sub-Inspectors (Executive) was published. Following was the position with respect to the applicants and Respondent No.4 in the aforesaid seniority list.

<u>S.No.</u>	<u>Name</u>	<u>Sr. No.</u>
i)	Vijay Kumar (A-1)	317
ii)	Veerender Singh Ahluwalia (A-2)	341
iii)	Satish Kumar Ahuja (A-4)	346
iv)	Rajpal Singh (A-3)	335
v)	Rajeshwar Gautam (R-4)	406

3. On 28.8.1986 applicants were placed in list 'F' of the post of Inspector (Executive). Following was the seniority position of the applicants in List 'F' of Inspectors (Executive):-

(10)

<u>S.No.</u>	<u>Name</u>	<u>Sr. No.</u>
i)	Vijay Kumar (A-1)	15
ii)	V.S.Ahluwalia (A-2)	33
iii)	S.K.Ahuja (A-4)	38

4. As far as Respondent No.4 is concerned he did not figure in the aforesaid list 'F' of Inspectors (Executive) in August 1986.

5. After the names of applicants were placed in list 'F' of the post of Inspector (Executive) they were given promotion to the post of Inspector (Executive) w.e.f. the following dates:-

<u>S.No.</u>	<u>Name</u>	<u>Date of promotion</u>
i)	Vijay Kumar (A-1)	01.09.1986
ii)	Veerender Singh Ahluwalia(A-2)	01.10.1996
iii)	Rajpal Singh (A-3)	01.09.1986
iv)	Satish Kumar Ahuja (A-4)	05.12.1986

6. As far as Respondent No.4 is concerned he did not figure in the list of candidates who had been promoted. Respondent No.4 was later promoted as Inspector (Executive) on 16.2.1987.

7. On 23.6.1988 Respondent No.4 made a representation to the Lt. Governor, Delhi for antedating his seniority which was rejected. On 9.7.1988 Respondent No.4 made a memorial to the President of India for antedating his seniority. On 8.6.1990

another seniority list of Sub Inspectors (Executive) was published. Following was the position of the applicants vis-a-vis Respondent No.4 in the said seniority list.

<u>S.No.</u>	<u>Name</u>	<u>Sr. No.</u>
i)	Vijay Kumar (A-1)	92
ii)	V.S.Ahluwalia (A-2)	115
iii)	S.K.Ahuja (A-4)	119
iv)	Rajpal Singh (A-3)	110
v)	Respondent No.4	173

8. Further seniority list of Inspectors (Executive) was published on 26.4.1994. Following was the position of seniority of the applicants vis-a-vis Respondent No.4.

<u>S.No.</u>	<u>Name</u>	<u>Sr. No.</u>
i)	Vijay Kumar (A-1)	293
ii)	V.S.Ahluwalia (A-2)	309
iii)	S.K.Ahuja (A-4)	314
iv)	Rajpal Singh (A-3)	305
v)	Resp. No.4	363

9. On 31.8.1995 the memorial earlier submitted by Respondent No.4 on 9.7.1988 to the President of India for antedating his seniority was accepted by the President and name of Respondent No.4 was brought in the list 'F' dated 11.11.1985 at Sl. No.78. Respondent No.4 was accordingly placed in list 'F' w.e.f. 11.11.1985 which was prior to the applicants' placement in the subsequent list on 20.8.1986. As

11/11/95

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as consequence of the aforesaid decision of the President of India, in the seniority list published on 20.9.1996, seniority of the applicants vis-a-vis Respondent No.4 is as follows:-

<u>S.No.</u>	<u>Name</u>	<u>Sr. No.</u>
i)	Respondent No.4	231
ii)	Vijay Kumar (A-1)	255
iii)	V.S.Ahluwalia (A-2)	272
iv)	Rajpal Singh (A-3)	268
v)	S.K.Ahuja (A-4)	277

10. It is pertinent to note that before the aforesaid order of the President dated 31.8.1995 was passed giving respondent No. 4 seniority over and above the applicants, applicants were not given notices and no hearing was afforded to them. After the aforesaid seniority list of 20.9.1996 was issued, applicants made their respective representations and by the two line orders communicated by the Deputy Commissioner of Police their representations have been rejected. Hence the present OA.

11. We have heard Shri Shyam Babu, learned counsel appearing on behalf of the applicants and also Shri Ajay Gupta, learned Government counsel appearing on behalf of the respondents No.2 & 3. Respondent No.1 & 4 though served have not entered their respective appearances. Facts narrated above show that each of the applicants had been appointed as Sub-Inspector (Executive) in Delhi Police prior to Respondent No.4. They had accordingly been placed senior to Respondent

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No. 4 in the seniority list of Sub-Inspector (Executive). Similarly applicants had been placed in list 'F' of Inspector (Executive) prior to Respondent No.4.

12. In this regard a reference to Rule 17 of the Delhi Police (Promotion and Confirmation) Rules, 1980 can usefully be made. Aforesaid Rule 17 deals with list 'F'. The same provides that the grade of selective Sub-Inspector shall be admitted to list 'F' on the basis of their respective seniority keeping in view the number of vacancies likely to occur in the following one year and the promotion made to the rank of Inspectors to this list as and when vacancies become available. Aforesaid rule is a statutory rule which mandates that the names of selected Sub-Inspectors should be admitted to list 'F' on the basis of their respective seniority. If the aforesaid rule has to be adhered to applicants will naturally have a preferential right to be enlisted in list 'F' prior in point of time to that of Respondent No.4. If seniority is the basis of being placed in list 'F' it is inconceivable that Respondent No.4 should find himself a place senior to that of the applicants.

13. In the circumstances applicants ought to be placed senior to Resp. No.4 in list 'F'. Applicants who were promoted as Sub-Inspector (Executive) prior to respondent No. 4 were placed senior to Respondent No.4 in the seniority list of Inspector (Executive). However, later on in the seniority list later prepared on 20.9.1996 Respondent No.4 is seen to have stolen a march over the applicants and has been placed senior to them. This has been done as a consequence of the President of India accepting the memorial of Respondent No.4 by an order issued on 31.8.1995. By the aforesaid order

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seniority has been accorded to Respondent No.4 and the reasons which have appealed to the President for granting the said seniority have not been placed on record and this is so despite the fact that the Union of India has been impleaded as Respondent No.1 and yet none has appeared on its behalf and no reasons have been assigned to justify the apparent illegal position as reflected by the aforesaid order issued on 31.8.1995. All that has been averred on behalf of the Respondent Nos.2 & 3 is as under:-

"In reply to this para, it is submitted that the respondent No.4 had preferred a memorial to the President of India against non-inclusion of his name to promotion list 'F' (Exe.) w.e.f. 8.11.1985. The said memorial was accepted by the Govt. of India. Therefore, the promotion of Respondent No.4 was ante-dated w.e.f. 8.11.1985 by placing his name at appropriate place of seniority.

That the contents of this para under reply are a matter of records which needs no comments. However, it is submitted that the Respondent No.4 had preferred a memorial to the President of India against non-inclusion of his name to promotion list 'F' (Exe.) w.e.f. 8.11.1985. This memorial was accepted by the Government of India, New Delhi in the month of August, 1995. Accordingly, the name of Respondent No.4 was admitted to promotion list 'F' (Exe.) retrospectively i.e. w.e.f. 8.11.1985 and his promotion was ante-dated w.e.f. 1.1.1986. Therefore, the seniority of respondent

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No.4 was also revised with retrospective effect and his name was placed in the seniority list over and above the names of the applicants."

14. In our view, the aforesaid averments contained in the counter put in on behalf of Respondents 2 & 3 are not justifiable reasons to accord Respondent No.4 seniority over and above that of the applicants. The said seniority in the circumstances is wholly unjustified and the same is quashed and set aside. Respondent No.4 will now figure below the applicants in the seniority list published on 20.9.1996.

15. The present OA is accordingly allowed in the aforesaid terms. No costs.

V.K.Majotra

(V.K.MAJOTRA)
Member (A)

'sd'

Ashok Agarwal

(ASHOK AGARWAL)
Chairman